



MISSOURI  
INDEPENDENT  
BANKERS  
ASSOCIATION

## Capitol Comments July 2017

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

### Joint federal agency issuances

#### Federal Banking Agencies Issue Notice of Proposed Rulemaking to Exempt Commercial Real Estate Transactions of \$400,000 or Less from Appraisal Requirements

WASHINGTON — Responding to concerns about the time and cost associated with completing real estate transactions, the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency today issued a notice of proposed rulemaking to raise the threshold for commercial real estate transactions requiring an appraisal to \$400,000.

The agencies believe raising this threshold for commercial real estate transactions from the current level of \$250,000 will significantly reduce the number of transactions that require an appraisal and will not pose a threat to the safety and soundness of financial institutions.

Instead of an appraisal, the proposal would require that commercial real estate transactions at or below the threshold receive an evaluation. As defined by agency guidance, evaluations are less detailed than appraisals, do not require completion by a state licensed or certified appraiser, and provide a market value estimate of the real estate pledged as collateral.

During the [Economic Growth and Regulatory Paperwork Reduction Act review process](#), financial industry representatives raised concerns that the current exemption level had not kept pace with price appreciation in the commercial real estate market. This proposal responds, in part, to these concerns.

Comments will be accepted for 60 days from publication in the Federal Register.

***Comment: The Agencies are also seeking comment on whether other factors should be considered in evaluating the current threshold for 1-to-4 family residential transactions and whether the threshold can and should be raised, consistent with consumer protection, safety and soundness, and reduction of unnecessary regulatory burden. To read the proposed rule, click [here](#).***

#### Agencies Release List of Distressed or Underserved Nonmetropolitan Middle-Income Geographies

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency today [June 21, 2017] announced the availability of the 2017 list of distressed or underserved nonmetropolitan middle-income geographies, where revitalization or stabilization activities are eligible to receive Community Reinvestment Act (CRA) consideration under the community development definition.

Distressed nonmetropolitan middle-income geographies and underserved nonmetropolitan middle-income geographies are designated by the agencies in accordance with their CRA regulations. The criteria for designating these areas are available on the Federal Financial Institutions Examination Council (FFIEC) website (<http://www.ffiec.gov/cra>). The designations continue to reflect local economic conditions, including unemployment, poverty, and population changes.

As with past releases, the agencies apply a one-year lag period for geographies that were listed in 2016 but are no longer designated as distressed or underserved in the current release. Revitalization or stabilization activities in these geographies are eligible to receive CRA consideration under the community development definition for 12 months after publication of the current list.

The current and previous years' lists can be found on the FFIEC website, along with information about the data sources used to generate those lists.

Attachments:

- [2017 List of Distressed or Underserved Nonmetropolitan Middle-Income Geographies](#)
- [Source Information and Methodology](#)

***Comment: Community banks should find strategic significance in the counties with geographies identified as suffering from population loss.***

### **Agencies Issue Host State Loan-to-Deposit Ratios**

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency today [June 21, 2017] issued the host state loan-to-deposit ratios that they will use to determine compliance with section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994. These ratios replace the prior year's ratios, which were released on June 17, 2016.

In general, section 109 prohibits a bank from establishing or acquiring a branch or branches outside of its home state primarily for the purpose of deposit production. Section 109 also prohibits branches of banks controlled by out-of-state bank holding companies from operating primarily for the purpose of deposit production.

Section 109 provides a process to test compliance with the statutory requirements. The first step in the process involves a loan-to-deposit ratio test that compares an out-of-state bank's loan-to-deposit ratio in a host state to the average loan-to-deposit ratio in the host state.

A second step is conducted if a bank's statewide loan-to-deposit ratio is less than one-half of the published ratio for that state or if data are not available at the bank to conduct the first step. The second step requires the appropriate agency to determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank's interstate branches.

A bank that fails both steps is in violation of section 109 and is subject to sanctions by the appropriate agency.

The updated host state loan-to-deposit ratios are attached.

Attachment: [Section 109 Host State Loan-to-Deposit Ratios](#)

***Comment: The regulation includes specific tests for determining whether interstate banks are lending appropriately in states where they have branches. Section 109 provides a process to test compliance with the statutory requirements.***

### **Agencies Issue Joint Letter Addressing Forced-Placement of Flood Insurance**

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency issued a letter on May 22, 2017 in response to an ABA letter in regards to the force-placement of Flood Insurance as a MIRE Event.

“Specifically, your letter asks whether the Agencies consider a creditor’s addition of a premium and fees for force-placed insurance to the outstanding principal balance of a designated loan to be an increase in the loan amount that triggers

the applicability of certain flood insurance regulatory requirements. After considering the matter, we are writing to inform you that the Agencies plan to provide written guidance on this issue.”

Below is from the letter issued by the regulators.

...snip

*The treatment of forced-placed flood insurance premiums and fees depends on the method the institution chooses for charging the borrower. The Agencies’ analysis of three methods of charging a borrower for force-placed insurance follows:*

*Premiums and fees added to the mortgage balance*

*If the institution’s loan contract with the borrower includes a provision permitting the lender or servicer to advance funds to pay for flood insurance premiums and fees as additional debt to be secured by the building or mobile home, such an advance would be considered part of the loan. As such, the addition of the flood insurance premiums and fees to the loan balance is not an “increase” in the loan amount, and thus would not be considered a triggering event. Consequently, the notice and escrow requirements that may result from a triggering event would not apply. If, however, there is no provision permitting this type of advancement of funds in the loan contract, the addition of flood insurance premiums and fees to the borrower’s loan balance would be considered an “increase” in the loan amount, and, therefore, is considered a triggering event because no advancement of funds was contemplated as part of the loan. Regardless of whether or not a triggering event has occurred, if the loan balance has increased, flood insurance regulations issued by the Agencies state that the minimum amount of flood insurance required “must be at least equal to the lesser of the outstanding principal balance of the designated loan or the maximum limit of coverage available for the particular type of property under the [National Flood Insurance Act of 1968, as amended].*

*Premiums and fees added to an unsecured account*

*If the institution accounts for and tracks the amount owed on the forced-placed flood insurance premiums and fees in a separate, unsecured account, this approach does not result in an increase in the loan balance and, therefore, is not considered a triggering event.*

*Premiums and fees billed directly to the borrower*

*If the institution bills the borrower directly for the cost of the force-placed flood insurance, this approach does not increase the loan balance and is not considered a triggering event. If, however, the borrower fails to pay the bill, and the institution then adds the insurance premiums and fees to the mortgage loan balance or to an unsecured account, the institution should follow the guidance pertaining to those methods set forth above.*

***Comment: The analysis contained in the letter will serve as the basis for the upcoming guidance.***

## CFPB actions

### CFPB Proposes Changes to Home Mortgage Disclosure (Regulation C); Temporarily Increases Institutional and Transactional Coverage Thresholds for Open-End Lines of Credit

The Bureau of Consumer Financial Protection (Bureau) is proposing amendments to Regulation C that would, for a period of two years, increase the threshold for collecting and reporting data with respect to open-end lines of credit so that financial institutions originating fewer than 500 open-end lines of credit in either of the preceding two years would not be required to begin collecting such data until Jan. 1, 2020.

**Issued proposed rule:** [View pdf](#)

The public comment period is open until July 31, 2017. The Bureau will issue a separate proposal with a longer notice and comment process to consider adjustments to the permanent threshold at a later date.

***Comment: The date issued by the CFPB was July 14, 2017. It is logical that many community banks - and community banking associations - will be issuing comment letters appreciative of the increased threshold for open-end lines of credit and requesting that it be made permanent.***

## **CFPB Issues Rule to Ban Companies from Using Arbitration Clauses**

**WASHINGTON, D.C.** — The Consumer Financial Protection Bureau (CFPB) today [July 10, 2017] announced a new rule to ban companies from using mandatory arbitration clauses to deny groups of people their day in court. Many consumer financial products like credit cards and bank accounts have arbitration clauses in their contracts that prevent consumers from joining together to sue their bank or financial company for wrongdoing. By forcing consumers to give up or go it alone – usually over small amounts – companies can sidestep the court system, avoid big refunds, and continue harmful practices. The CFPB’s new rule will deter wrongdoing by restoring consumers’ right to join together to pursue justice and relief through group lawsuits.

"Arbitration clauses in contracts for products like bank accounts and credit cards make it nearly impossible for people to take companies to court when things go wrong," said CFPB Director Richard Cordray. "These clauses allow companies to avoid accountability by blocking group lawsuits and forcing people to go it alone or give up. Our new rule will stop companies from sidestepping the courts and ensure that people who are harmed together can take action together."

Hundreds of millions of contracts for consumer financial products and services have included mandatory arbitration clauses. These clauses typically state that either the company or the consumer can require that disputes between them be resolved by privately appointed individuals (arbitrators) except for individual cases brought in small claims court. While these clauses can block any lawsuit, companies almost exclusively use them to block group lawsuits, which are also known as “class action” lawsuits. With group lawsuits, a few consumers can pursue relief on behalf of everyone who has been harmed by a company’s practices. Almost all mandatory arbitration clauses force each harmed consumer to pursue individual claims against the company, no matter how many consumers are injured by the same conduct. However, consumers almost never spend the time or money to pursue formal claims when the amounts at stake are small.

**The text of the arbitration rule is available at:** [http://files.consumerfinance.gov/f/documents/201707\\_cfpb\\_Arbitration-Agreements-Rule.pdf](http://files.consumerfinance.gov/f/documents/201707_cfpb_Arbitration-Agreements-Rule.pdf)

***Comment: Congress may use its authority to overturn this recent rule thru the Congressional Review Act and is likely to do so. Additionally, OCC acting Comptroller Keith Noreika has requested data from the CFPB that would support the imposition of the arbitration rule, and that the rule be halted until that data can be verified.***

## **CFPB Proposes Amendments to Federal Mortgage Disclosure Requirements under the Truth in Lending Act (Regulation Z)**

Washington, D.C. – The Consumer Financial Protection Bureau (CFPB) today [July 7, 2017] finalized updates to its “Know Before You Owe” mortgage disclosure rule with amendments that are intended to formalize guidance in the rule, and provide greater clarity and certainty. The changes will facilitate implementation of the Know Before You Owe rule by the mortgage industry. The CFPB is also releasing a limited follow-up proposal to address an additional implementation issue.

“A mortgage is one of the largest financial decisions a consumer will ever make, and CFPB’s rules help ensure consumers have the easy-to-understand information they need before making a decision that will significantly impact their financial lives,” said CFPB Director Richard Cordray. “Our updates will clarify parts of our mortgage disclosure rule to make for a smoother implementation process for lenders and consumers.”

The Know Before You Owe mortgage disclosure rule took effect Oct. 3, 2015. The CFPB’s rule created new, streamlined forms that consumers receive when applying for and closing on a mortgage. In addition to clarifications and technical corrections, the amendments that the Bureau is finalizing today address a handful of other issues within the rule, including:

- **Tolerances for the total of payments:** Before the Know Before You Owe mortgage disclosure rule, the total of payments disclosure was determined using the finance charge as part of the calculation. The Know Before You Owe mortgage disclosure rule changed the total of payments calculation so that it did not make specific use of the finance charge. The Bureau is now finalizing updates to include tolerance provisions for the total of payments that parallel the tolerances for the finance charge and disclosures affected by the finance charge.
- **Housing assistance lending:** The Know Before You Owe mortgage disclosure rule gave a partial exemption from disclosure requirements to certain housing assistance loans, which are originated primarily by housing finance agencies. The Bureau's update, as finalized, promotes housing assistance lending by clarifying that recording fees and transfer taxes may be charged in connection with those transactions without losing eligibility for the partial exemption. The update also excludes recording fees and transfer taxes from the exemption's limits on costs. Through the update, more housing assistance loans will qualify for the partial exemption, which should encourage these loans.
- **Cooperatives:** The Bureau is finalizing updates to extend the rule's coverage to include all cooperative units. Currently, the rule only covers transactions secured by real property, as defined under state law. Cooperatives are sometimes treated as personal property under state law and sometimes as real property. By including all cooperatives in the rule, the Bureau is simplifying compliance and ensuring that more consumers benefit from the rule.
- **Privacy and sharing of information:** The Know Before You Owe mortgage disclosure rule requires creditors to provide certain mortgage disclosures to the consumer. The Bureau has received many questions about sharing the disclosures provided to consumers with third parties to the transaction, including the seller and real estate brokers. The Bureau understands that it is usual, accepted, and appropriate for creditors and settlement agents to provide a Closing Disclosure to consumers, sellers, and their real estate brokers or other agents. The Bureau is finalizing additional commentary to clarify how a creditor may provide separate disclosure forms to the consumer and the seller.

The finalized amendments are available at: [http://files.consumerfinance.gov/f/documents/201707\\_cfpb\\_Final-Rule\\_Amendments-to-Federal-Mortgage-Disclosure-Requirements\\_TILA.pdf](http://files.consumerfinance.gov/f/documents/201707_cfpb_Final-Rule_Amendments-to-Federal-Mortgage-Disclosure-Requirements_TILA.pdf)

In addition to the final rule, the CFPB is issuing a proposal addressing when a creditor may use a Closing Disclosure, instead of a Loan Estimate, to determine if an estimated closing cost was disclosed in good faith and within tolerance. Comments are due 60 days after the proposal's publication in the Federal Register and will be weighed carefully before a final regulation is issued.

The proposal is available at: [http://files.consumerfinance.gov/f/documents/201707\\_cfpb\\_Proposed-Rule\\_Amendments-to-Federal-Mortgage-Disclosure-Requirements\\_TILA.pdf](http://files.consumerfinance.gov/f/documents/201707_cfpb_Proposed-Rule_Amendments-to-Federal-Mortgage-Disclosure-Requirements_TILA.pdf)

*Comment: The date issued by the CFPB was July 7, 2017. The final rule states "The bureau believes that industry has made substantial implementation progress. The bureau is prioritizing its resources to further facilitate industry's implementation progress. This final rule does not contain any revisions that implicate fundamental policy choices, such as the disclosure of simultaneous issuance title insurance premiums, made in the TILA-RESPA Final Rule. This final rule also does not include additional cure provisions." The final rule is effective 60 days after it is published in the Federal Register. However, the mandatory compliance date is Oct. 1, 2018.*

## CFPB Releases Monthly Complaint Report, Vol. 24

The CFPB's Office of Consumer Response hears directly from consumers about the challenges they face in the marketplace, brings their concerns to the attention of companies, and assists in addressing their complaints.

This Monthly Complaint Report provides a high-level snapshot of trends in consumer complaints. It shows what consumers in all fifty states and the District of Columbia have told us and highlights top issues by state.

Full report: [Read the full report](#)

***Comment: This report focuses on complaints by older consumers. Nearly everyday, approximately 10,000 Americans turn 62 making that segment of the population one of the fastest growing cohorts. CFPB Director Richard Cordray said, "Older consumers who may be on a fixed income are at a greater risk for financial trouble if they encounter problems with financial products or services. The complaints submitted by older consumers are important for the Bureau to ensure we are properly looking out for this segment of the population."***

## FDIC actions

### FDIC Releases and Seeks Comment on Manual for Processing Deposit Insurance Applications

The Federal Deposit Insurance Corporation (FDIC) today [July 10, 2017] announced it is releasing and seeking public comment on a procedures manual developed to assist FDIC staff as they evaluate and process deposit insurance applications. The manual addresses each stage of the insurance application process: from pre-filing activities to application acceptance, review, and processing; preopening activities; and postopening considerations.

"The manual reflects the FDIC's ongoing commitment to provide clear and comprehensive guidance about the deposit insurance application process," said FDIC Chairman Martin J. Gruenberg. "Issuing the manual publicly will provide transparency and benefit applicants and other interested parties by further clarifying the path to establishing a *de novo* institution. The manual complements other resources available from the FDIC, and its release extends the FDIC's efforts to work with any group interested in organizing a new bank."

The FDIC is seeking public comment on the manual, specifically on how well the manual helps bank organizers understand the FDIC's application process. The 60-day comment period ends on September 8, 2017. Comments should be submitted to [manualcomments@fdic.gov](mailto:manualcomments@fdic.gov).

The FDIC has taken a number of steps over the past several years to enhance the clarity and transparency of the deposit insurance application process. In May, following a public comment period, the FDIC released a publication entitled, [Applying for Deposit Insurance – A Handbook for Organizers of De Novo Institutions](#). The FDIC conducted a series of regional outreach events to discuss the deposit insurance application requirements and highlight strategies for the successful formation of a *de novo* institution.

The FDIC also issued two sets of answers to frequently asked questions associated with the Statement of Policy on Applications for Deposit Insurance, provided an overview of the application process during a conference of state bank supervisory agencies, and hosted an interagency training conference to promote coordination in the review of applications.

The FDIC also shortened the period of enhanced supervisory monitoring of newly insured depository institutions to three years, from the seven-year period established during the financial crisis.

More resources are available on a section of the FDIC website dedicated to [applications for deposit insurance](#).

Attachment: [Procedures Manual on Deposit Insurance Applications](#)

***Comment: The release of the manual is the latest in a series of steps by the FDIC to encourage new bank charters. It is worth noting that the FDIC recently approved insurance for de novo bank. Hopefully this will be the beginning of a trend.***

## OCC actions

### OCC Reports Improved Mortgage Performance in First Quarter of 2017

WASHINGTON—Performance of first-lien mortgages improved during the first quarter of 2017 compared with a year earlier, according to the Office of the Comptroller of the Currency's (OCC) quarterly report on mortgages.



The *OCC Mortgage Metrics Report, First Quarter 2017*, showed 95.6 percent of mortgages included in the report were current and performing at the end of the quarter, compared with 94.9 percent a year earlier.

The report also showed that foreclosure activity has increased from the previous quarter. This is the first quarter-over-quarter increase in two years. Reporting servicers initiated 47,546 new foreclosures during the first quarter of 2017, a 4.5 percent increase from the previous quarter but a decrease of 19.3 percent from a year earlier. Servicers implemented 35,137 mortgage modifications in the first quarter of 2017. Eighty-eight percent of the modifications reduced borrowers' monthly payments.

The first-lien mortgages included in the OCC's quarterly report comprise 35 percent of all residential mortgages outstanding in the United States or approximately 19.5 million loans totaling \$3.42 trillion in principal balances. This report provides information on mortgage performance through March 31, 2017, and it can be downloaded from the OCC's website, [www.occ.gov](http://www.occ.gov).

***Comment: The report is generated from data from seven large national banks representing 35 percent of all outstanding residential mortgages and may not be representative of community banks. The share of current and performing first-lien mortgage increased from 94.9 percent a year ago to 95.6 percent for the first quarter of this year. While foreclosure activity was up 4.5 percent from the fourth quarter of 2016, foreclosures were down 19.3 percent when compared year-on-year.***

### **OCC Hosts Kansas City Workshop for Board Directors and Bank Management**

WASHINGTON — The Office of the Comptroller of the Currency will host a workshop in Kansas City, Mo., at the Westin Kansas City at Crown Center, August 28-30, for directors, senior management team members and other key executives of national community banks and federal savings associations supervised by the OCC.

The Building Blocks for Directors workshop combines lectures, discussion, and exercises to provide practical information on the roles and responsibilities of board participation. Taught by seasoned OCC supervision staff, the workshop focuses on duties and core responsibilities of directors and management, discusses major laws and regulations, and increases familiarity with the examination process.

The workshop fee is \$99. Participants receive a pre-workshop reading package and course materials, assorted supervisory publications, and a Dictionary of Banking Terms. The workshop is limited to the first 35 registrants.

The workshops are taught by experienced OCC staff and are offered nationwide to enhance and expand the skills of national community bank and federal savings association directors. To register for this workshop, visit [www.occ.gov/occworkshops](http://www.occ.gov/occworkshops).

***Comment: These workshops are open to community bank directors and provide a valuable educational opportunity.***

### **OCC Report Highlights Risks Facing National Banks and Federal Savings Associations**

WASHINGTON — The Office of the Comptroller of the Currency (OCC) today [July 7, 2017] reported strategic, credit, operational, and compliance risks remain top concerns for the federal banking system in its *Semiannual Risk Perspective for Spring 2017*.

Highlights from the report include:

- Strategic risk remains elevated as banks make decisions to expand into new products or services or consider new delivery channels and continue merger and acquisition activity. Banks face competition from nonfinancial firms, including financial technology companies entering the traditional banking industry. This competition is causing changes in the way customers and financial institutions approach banking.
- Credit underwriting standards and practices across commercial and retail portfolios remain an area of OCC emphasis. Over the past two years, commercial and retail credit underwriting has loosened, showing a transition from a conservative to an increasing risk appetite as banks strive to achieve loan growth and maintain or grow market share.

- Operational risk continues to challenge banks because of increasing cyber threats, reliance on concentrations in significant third-party service providers, and the need for sound governance over product service and delivery.
- Compliance risk remains high as banks continue to manage money-laundering risks and implement changes to comply with the amended customer protection requirements under the Military Lending Act and integrated mortgage disclosure rules.

The report covers risks facing national banks and federal savings associations based on data for the 12 months ending December 31, 2016. The report presents data in four main areas: the operating environment, bank performance, trends in key risks, and regulatory actions. It focuses on issues that pose threats to those financial institutions regulated by the OCC and is intended as a resource to the industry, examiners, and the public.

#### Related Links

- [OCC Semiannual Risk Perspective for Spring 2017](#) (PDF)
- [Remarks](#) (PDF)
- [Acting Comptroller of the Currency Keith A. Noreika](#)

*Comment: Acting Comptroller of the Currency Keith Noreika pointed out in his remarks that, “While these are risks that the system faces as a whole, we note that the risks differ from bank to bank based on size, region, and business model. Compliance, governance, and operational risk issues remain leading risk issues for large banks while strategic, credit, and compliance risks remain the leading issues for midsize and community banks.”*

#### Revised Comptroller's Licensing Manual Booklet – General Policies and Procedures

The Office of the Comptroller of the Currency (OCC) issued today [July 5, 2017] the “General Policies and Procedures” booklet of the *Comptroller’s Licensing Manual*. This revised booklet replaces the booklet of the same title issued in March 2008. This booklet updates procedures and requirements to reflect the integration 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.

#### Note for Community Banks

This booklet applies to all national banks and federal savings associations.

#### Highlights

This revised booklet:

- describes how to file applications and notices with the OCC.
- outlines general filing requirements.
- outlines the OCC’s review and decision processes for licensing filings.

**Related Link** [“General Policies and Procedures”](#) (PDF)

#### Revised Comptroller's Licensing Manual Booklet – Branch Closings

The Office of the Comptroller of the Currency (OCC) issued today [June 29, 2017] the “Branch Closings” booklet of the *Comptroller’s Licensing Manual*. This revised booklet replaces the booklet titled “Branch Closings” issued in April 2003. The revised booklet incorporates updated branch closing procedures and requirements following the integration 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 branch closings for both national banks and federal savings associations (FSA) (collectively, banks).

#### Note for Community Banks

This booklet applies to all national banks and FSAs.

#### Highlights



The revised “Branch Closings” booklet

- provides an overview of the requirements for a bank to provide the OCC and the customers of a branch with a 90-day advance notice of a branch closing, and any exceptions that may apply.
- details the different requirements of a “branch closing” for a national bank or FSA.
- clarifies policies and procedures that a bank should follow if a branch must be closed temporarily due to an emergency or factors beyond the control of the bank.
- lists references and links to informational resources and sample forms and documents that banks may find useful during the branch closing process.

**Related Link** [“Branch Closings”](#) (PDF)

## Other federal action and news

### FTC Charges Debt Collection Scheme with Posing as Attorneys to Take Consumers’ Money for Phantom Debts

The Federal Trade Commission has charged a debt collection operation with taking people’s money for fake debts they did not owe by posing as lawyers and falsely threatening to sue or have them arrested if they did not pay.

A federal court temporarily halted the operation and froze its assets at the request of the FTC, which seeks to end the practices.

According to the FTC, the defendants’ collectors called people without identifying themselves as debt collectors, said a lawsuit or criminal action had been filed or soon would be filed against them, and gave a phony “case number” and a phone number to call. Those who responded were told the callers were attorneys or were calling from a law firm. The FTC also alleges that to coerce some people into paying the phantom debts, the defendants threatened them with prison time or claimed police would come to their house to arrest them.

The defendants allegedly also pretended to be unrelated, legitimate small businesses, which may have harmed those businesses’ reputation and caused angry consumers to call the businesses to complain about their debt collection activities.

The FTC also alleges that the defendants illegally disclosed purported debts to third parties, failed to send consumers required written notices with the debt amount and the creditor’s name, and failed to give them an opportunity to dispute the debt.

Hardco Holding Group LLC, S&H Financial Group Inc., Daryl M. Hall and Dequan M. Sicard are charged with violating the FTC Act and the Fair Debt Collection Practices Act.

***Comment: The FTC said that those charged often called people without identifying themselves as debt collectors and provided phony case numbers and a phone number to call so that they could address a pending or imminent lawsuit or criminal action charge. To get some people to pay up on these “phantom debts,” they also allegedly threatened consumers with jail time or told them that police would be arriving at their home to take them away.***

### CSBS State Regulators and U.S. Secret Service Issue Industry Best Practices for Combating Cyber Crime

Washington, D.C. – Today [June 28, 2017], state bank regulators, jointly with the U.S. Secret Service, released banker best practices for managing risks related to certain cyber threats. The best practices were developed by the Bankers Electronic Crimes Task Force, which includes bank CEOs and executive officers from banks across the U.S. In the industry best practices issued today, the bankers identified four cyber threats that warrant continued attention by banks. These include:

Large-Value Funds Transfers – unauthorized wire transfers (SWIFT-like thefts) of millions to billions in funds.

Ransomware – a form of extortion that uses malicious software to encrypt a device or data, and demand payment for access.

Distributed Denial-of-Service (DDoS) – an attempt to prevent users from accessing information or services, such as overloading the capacity of a bank’s website.

ATM Jackpotting/ Cash-Out – an illegitimate attempt to dispense cash from an ATM.

The release of these industry best practices is part of a larger effort among state bank regulators and federal authorities to combat cybercrime. In the past, state and federal authorities have hosted webinars, issued a cybersecurity assessment tool and held executive briefings to inform bank CEOs about the U.S. and global cyber threat landscape, as well as to equip the industry with the knowledge and tools for mitigating cyber risks.

The Bankers Electronic Crimes Task Force was modeled after the U.S. Secret Service’s Electronic Crimes Task Force but developed exclusively for the community banking industry. Texas and Massachusetts state banking departments, working with the Conference of State Bank Supervisors (CSBS) and 11 other banking departments, facilitated this initiative. However, the Bankers Electronic Crime Task Force, identified the threats and developed the best practices. Members of the Bankers Electronic Crimes Task Force include community banks that range from \$90 million in total assets to \$7.8 billion.

Bankers Electronic Crimes Task Force:

- Berkshire Bank, Pittsfield, MA
- PeoplesBank, Holyoke, MA
- Texas Bank & Trust, Longview, TX
- Lewis & Clark Bank, Oregon City, OR
- Bank of Utah, Ogden, UT
- Mainstreet Bank, Cook, NE
- First Northern Bank, Dixon, CA
- Orrstown Bank, Shippensburg, PA
- Happy State Bank, Happy, TX
- First Savings Bank, Clarksville, IN
- The Commercial and Savings Bank of Millersburg, OH
- RCB Bank, Claremore, OK
- Community Bancshares of Mississippi, Brandon, MS
- Bank of Oak Ridge, Oak Ridge, NC
- Farmers Bank & Trust Company, Magnolia, AR

More information on executive leadership of cybersecurity is available at [www.csbs.org/cybersecurity](http://www.csbs.org/cybersecurity).

***Comment: Please note that these ‘best practices’ are not intended for public dissemination.***

## Publications, articles, reports, studies, testimony & speeches

### Federal Reserve Banks Issue *Beige Book*

This report was prepared at the Federal Reserve Bank of Kansas City based on information collected on or before June 30, 2017. This document summarizes comments received from contacts outside the Federal Reserve System and is not a commentary on the views of Federal Reserve officials.

### **Overall Economic Activity**

Economic activity expanded across all twelve Federal Reserve Districts in June, with the pace of growth ranging from slight to moderate. In addition, the majority of Districts expected modest to moderate gains in the months ahead. Consumer spending appears to be rising across a majority of Districts, led by increases in nonauto retail sales and

tourism. However, many Districts noted some softening in consumer spending, particularly in auto sales which declined in half of the Districts. Manufacturing and nonfinancial services activity continued to grow, with most Districts reporting modest to moderate gains since the last report. Loan demand was steady to increasing in most Districts. Residential and nonresidential construction activity was flat to expanding in most Districts. Most Districts cited low home inventory levels in certain market segments which were constraining home sales in many areas. Agricultural conditions were mixed across the nation as moisture conditions varied considerably; several Districts continued to report weakness in dairy and some crop sectors due to low prices. Energy activity generally improved since the last survey, particularly for oil and natural gas. Coal production remained sluggish although higher than year-ago levels.

### **Employment and Wages**

Employment across most of the nation maintained a modest to moderate pace of expansion, although the Atlanta and St. Louis Districts noted flat employment levels. Labor markets tightened further for both low- and high-skilled positions, particularly in the construction and IT sectors. Contacts across a broad range of industries reported a shortage of qualified workers which had limited hiring. Wages continued to grow at a modest to moderate pace in most Districts, and many firms attributed these wage gains to tighter labor market conditions. Wage pressures generally trended with employment conditions, and rising wage pressures were noted among both low- and high-skilled positions. A few Districts also reported rising costs of benefits and variable pay.

### **Prices**

Prices continued to rise modestly in the majority of Districts, and a few Districts noted that price pressures had eased slightly. Several Districts reported higher construction materials costs and freight prices, while gasoline prices fell. Retail prices held steady or slightly increased, and the manufacturing sector noted steady to modestly rising input costs. Low agricultural prices were causing stress for some farmers, although some food retailers reported improved margins due to lower commodity prices. Home prices continued to increase in most Districts.

## **Federal Reserve Payments Study Highlights Changes in Consumer and Business Payment Choice**

The Federal Reserve Payments Study (FRPS) is an ongoing effort to quantify aggregate volumes, trends, and related information on the payments system in the United States. The study has been conducted triennially since 2001, and has reported the aggregate number and value of various noncash payments that have been made by U.S. consumers and businesses, including for-profit and not-for-profit enterprises and federal, state, and local government agencies. As the noncash payments system has grown larger and more complex and as stakeholders face more questions and choices, the study provides a periodic benchmark of developments in the U.S. payments system to policymakers, the industry, and the public.

FRPS team members develop aggregate estimates from survey data collected from representative samples of depository institutions, and a census of payment networks, processors, and private-label issuers. The questionnaires request information on noncash payments, including checks, automated clearinghouse (ACH) transfers, debit card (including prepaid and non-prepaid) payments, credit card payments, as well as emerging and innovative payment initiation services and payment methods that provide alternatives to traditional payment methods. Recent surveys have also collected information on noncash payments fraud, cash withdrawals and deposits, and wire transfers.

Current Study (2016)

Detailed Data Release

- Recent Developments in Consumer and Business Payment Choices ([PDF](#))
- Detailed Data Tables ([Excel](#))

## **Consumer Scam Alert: Do Not Use Federal Reserve Routing Account Numbers to Pay Bills**

Recently, the Federal Reserve Banks have received a number of unauthorized transactions in which consumers have tried to use the Fed's routing numbers and their Social Security numbers to pay their bills.

It is important for consumers to know that when making online or e-check bill payments, they cannot use Federal Reserve routing numbers. Federal Reserve routing numbers are used for sorting and processing payments between banks. Any video, text, email, phone call, flyer, or website that describes how to pay bills using a Federal Reserve Bank routing number or using an account at the Federal Reserve Bank is a scam.

**Comment:** To read more about this scam, 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   |
|-------------|--|
| 07.19.2017  | The OCC, Board, and FDIC (collectively, the agencies) are inviting comment on a <a href="#">proposed</a> rule to amend the agencies' regulations requiring appraisals of real estate for certain transactions. The proposal would increase the threshold level at or below which appraisals would not be required for commercial real estate transactions from \$250,000 to \$400,000. This proposed change to the appraisal threshold reflects comments the agencies received through the regulatory review process required by the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) and completed in early 2017. For commercial real estate transactions with a value at or below the proposed threshold, the amended rule would require institutions to obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices if the institution does not obtain an appraisal by a state certified or licensed appraiser. Comments must be received 60 days after publication in the Federal register. |
| 07.14.2017  | The Bureau of Consumer Financial Protection (Bureau or CFPB) <a href="#">proposes</a> amendments to Regulation C that would, for a period of two years, increase the threshold for collecting and reporting data with respect to open-end lines of credit so that financial institutions originating fewer than 500 open-end lines of credit in either of the preceding two years would not be required to begin collecting such data until January 1, 2020. Comments must be received on or before July 31, 2017.   |
| 07.05.2017  | The Bureau of Consumer Financial Protection (Bureau) is <a href="#">proposing</a> to amend Federal mortgage disclosure requirements under the Real Estate Settlement Procedures Act and the Truth in Lending Act that are implemented in Regulation Z. The proposed amendments relate to when a creditor may compare charges paid by or imposed on the consumer to amounts disclosed on a Closing Disclosure, instead of a Loan Estimate, to determine if an estimated closing cost was disclosed in good faith. Specifically, the proposed amendments would permit creditors to do so regardless of when the Closing Disclosure is provided relative to consummation. Comments must be received 60 days after publication in the Federal register.  |
| 05.31.2017  | The Board is <a href="#">proposing</a> to amend Regulation CC to address situations where there is a dispute as to whether a check has been altered or is a forgery, and the original paper check is not available for inspection. Comments must be received on or before August 1, 2017.  |
| 04.13.2017  | The Bureau of Consumer Financial Protection (Bureau) <a href="#">proposes</a> amendments to Regulation C to make technical corrections to and to clarify certain requirements adopted by the Bureau's Home Mortgage Disclosure (Regulation C) final rule ( 2015 HMDA Final Rule or the Final Rule), which was published in the <i>Federal Register</i> on October 28, 2015. The Bureau also proposes a new reporting exclusion. Comments on the proposal will be due 30 days after it is published 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      | <a href="#">Joint Agencies: Loans in Areas Having Special Flood Hazards</a> 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).

- 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 issued a Final Rule on April 25, 2017 delaying 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.**
- 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 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 October 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 October 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.<sup>1</sup> 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                         | <a href="#">Credit Card Accountability Responsibility and Disclosure Act of 2009</a>   |
| CFPB                             | <a href="#">Consumer Financial Protection Bureau</a>   |
| CFR                              | <a href="#">Code of Federal Regulations</a> .<br>Codification of rules and regulations of federal agencies.  |
| CRA                              | <a href="#">Community Reinvestment Act</a> . This Act is designed to encourage loans in all segments of communities.   |
| CRE                              | Commercial Real Estate   |
| CSBS                             | <a href="#">Conference of State Bank Supervisors</a>   |
| CTR                              | <a href="#">Currency Transaction Report</a> . Filed for each deposit, withdrawal, exchange of currency that involves a transaction in currency of more than \$10,000.  |
| Dodd-Frank Act                   | <a href="#">The Dodd–Frank Wall Street Reform and Consumer Protection Act</a>  |
| DOJ                              | <a href="#">Department of Justice</a>  |
| FDIC                             | <a href="#">Federal Deposit Insurance Corporation</a>  |
| EFTA                             | <a href="#">Electronic Fund Transfer Act</a>   |
| Federal bank regulatory agencies | FDIC, FRB, and OCC   |

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



|        |  |
|--------|--|
| HUD    | <a href="#">U.S. Department of Housing and Urban Development</a>   |
| IRS    | <a href="#">Internal Revenue Service</a>   |
| MLO    | Mortgage Loan Originator   |
| MOU    | Memorandum of Understanding  |
| NFIP   | <a href="#">National Flood Insurance Program</a> . U.S. government program to allow the purchase of flood insurance from the government. |
| NMLS   | <a href="#">National Mortgage Licensing System</a>   |
| OCC    | <a href="#">Office of the Comptroller of the Currency</a>  |
| OFAC   | <a href="#">Office of Foreign Asset Control</a>  |
| OREO   | <a href="#">Other Real Estate Owned</a>  |
| QRM    | Qualified Residential Mortgage   |
| Reg. B | <a href="#">Equal Credit Opportunity</a>   |
| Reg. C | <a href="#">Home Mortgage Disclosure</a>   |

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

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