MISSOURI INDEPENDENT BANKERS ASSOCIATION

Capitol Comments

September 2018

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

"Autumn carries more gold in its pocket than all the other seasons." – Jim Bishop

Joint federal agency issuances, actions and news

Agencies Propose Rule Regarding the Treatment of High Volatility Commercial Real Estate (09.18.2018)

Three federal banking agencies invited public comment on a proposal to modify the agencies' capital rules for high volatility commercial real estate exposures, as required by the Economic Growth, Regulatory Relief, and Consumer Protection Act.

The proposal also asks for comment on certain terms contained in the revised definition of high volatility commercial real estate. The changes, when finalized, would apply to all banking organizations subject to the agencies' capital rules. Comments will be accepted for 60 days after publication in the Federal Register.

Source link.

Comment: EGRRCPA Section 214 added a section to the Federal Deposit Insurance Act that defined HVCRE exposures and provided that the agencies can require a higher risk weight only for HVCRE exposures that: qualify as acquisition, construction, or development loans; financed the acquisition, development, or improvement of property into income-producing property; and are to be repaid from revenue derived from the property or a future refinancing.

Interagency Statement Clarifying the Role of Supervisory Guidance (09.17.2018)

The FDIC, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the Bureau of Consumer Financial Protection, and the National Credit Union Administration (the agencies) jointly issued a statement to explain the role of supervisory guidance and to describe the agencies' approach to supervisory guidance.

Highlights:

The purpose of supervisory guidance is to articulate the agencies' general views regarding appropriate practices for a given subject area.

The agencies issue various types of supervisory guidance to their respective supervised institutions, including; interagency statements, advisories, bulletins, policy statements, questions and answers, and frequently asked questions.

A statute or regulation has the force and effect of law. Unlike a statute or regulation, supervisory guidance does not have the force and effect of law, and the agencies do not take enforcement actions based on supervisory guidance.

Supervised institutions at times request supervisory guidance, and such guidance is important to provide insight to the industry, as well as supervisory staff, in a transparent way that helps to ensure consistency in the supervisory approach.

Agencies intend to limit the use of numerical thresholds in describing expectations in supervisory guidance, and clarify that they are exemplary only and not suggestive of requirements.

Agencies will not criticize institutions for a "violation" of supervisory guidance.

Agencies may continue to seek public comment on supervisory guidance to gather information, improve understanding of issues, or seek ways to achieve supervisory objectives most effectively and with least burden on institutions.

Agencies will seek to reduce the issuance of multiple guidance documents on the same topic.

Agencies will continue efforts to be clear in communications regarding guidance and to encourage questions from supervised institutions, and encourage supervised institutions with questions about this statement or any applicable supervisory guidance to discuss the questions with their appropriate agency contact.

Source link.

Comment: Too often, qualitative guidance has been used as a bludgeon on community banks. The Interagency Statement clarifies the agencies' position as to the difference between supervisory guidance and laws or regulations and provides: "Unlike a law or regulation, supervisory guidance does not have the force and effect of law, and the agencies do not take enforcement actions based on supervisory guidance."

FFIEC CRA Alert - CRA Data Entry Software Version 2018 Release 2 (08.24.2018)

The 2018 CRA Data Entry Software Release 2 is now available.

On behalf of the FFIEC, the Federal Reserve System designed the CRA Data Entry Software to assist respondents in automating the filing of their CRA data. The free software includes editing features to help verify and analyze the accuracy of the data. The data file created using this software, can be submitted by one of the available submission methods listed in the software.

For more information on using the FFIEC's CRA DES, refer to DES frequently asked questions.

Technical questions regarding installation of the DES should be directed to CRAHELP@FRB.GOV.

BCFP actions and news

Bureau of Consumer Financial Protection Issues Updated FCRA Model Disclosures (09.12.2018)

WASHINGTON, D.C. — The Bureau of Consumer Financial Protection (Bureau) issued an interim final rule updating two model disclosures to reflect changes made to the Fair Credit Reporting Act (FCRA) by recent legislation.

In May 2018, Congress passed the Economic Growth, Regulatory Relief, and Consumer Protection Act, which requires nationwide consumer reporting agencies to provide "national security freezes" free of charge to consumers. The "national security freeze" restricts prospective lenders from obtaining access to a consumer's credit report, which makes it harder for identity thieves to open accounts in the consumer's name.

The Economic Growth, Regulatory Relief, and Consumer Protection Act mandates that whenever the FCRA requires a consumer to receive either the Summary of Consumer Rights or the Summary of Consumer Identity Theft Rights, a notice regarding the new security freeze right also must be included. The Summary of Consumer Rights is a summary of rights to obtain and dispute information in consumer reports and to obtain credit scores. The Summary of Consumer Identity Theft Rights is a summary of rights of identity theft victims. The FCRA requires the Bureau to write model forms of these documents. Consumer reporting agencies and other entities can use the Bureau's model forms or their own substantially similar forms.

The May 2018 legislation also extends from 90 days to one year the minimum time that nationwide consumer reporting agencies must include an initial fraud alert in a consumer's file. A fraud alert informs a prospective lender that a consumer may have been a victim of identity theft and requires that the lender take steps to verify the identity of anyone seeking credit in the consumer's name. Congress set an effective date of Sept. 21, 2018 for the security freeze right, the notice requirement, and the change in duration for initial fraud alerts.

To assist businesses in coming into compliance with the new law, the interim final rule issued updates the Bureau's model forms, incorporating the new required notice and the change to the minimum duration of initial fraud alerts. The interim final rule also takes steps to mitigate the impact of these changes on users of the model forms published by the Bureau in November 2012 by permitting various compliance alternatives.

The interim final rule invites comment on these and any other aspects of the Bureau's model forms to inform any possible further rulemaking. The interim final rule is available at: https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/summaries-rights-under-fair-credit-reporting-act-regulation-v/

The revised Summary of Consumer Rights is at:
https://files.consumerfinance.gov/f/documents/bcfp_consumer-rights-summary_2018-09.docx

The revised Summary of Consumer Rights in Spanish is at:
https://files.consumerfinance.gov/f/documents/bcfp_consumer-rights-summary_2018-09_es.docx

The revised Summary of Consumer Identity Theft Rights is at:
https://files.consumerfinance.gov/f/documents/bcfp_consumer-identity-theft-rights-summary_2018-09.docx

The revised Summary of Consumer Identity Theft Rights in Spanish is at:
https://files.consumerfinance.gov/f/documents/bcfp_consumer-identity-theft-rights-summary_2018-09_es.docx

The Bureau's educational material for consumers on credit reports and credit scores is available at: https://www.consumerfinance.gov/consumer-tools/credit-reports-and-scores/.

Source link.

Comment: Nationwide consumer reporting agencies must provide free national security freezes, which prevent potential lenders from accessing a consumer's report and, in turn, limit an identity thief's ability to open accounts in the consumer's name. This could present an underwriting issue for creditors.

Bureau of Consumer Financial Protection Releases Latest Supervisory Highlights (09.06.2018)

WASHINGTON, D.C. — The Bureau of Consumer Financial Protection (Bureau) released its 17th edition of Supervisory Highlights. The report covers Bureau supervision activities generally completed between December 2017 and May 2018, and shares observations in the areas of auto loan servicing, credit card account management, debt collection, mortgage servicing, payday lending, and small business lending.

Under the Dodd-Frank Wall Street Reform and Consumer Protection Act, the Bureau is authorized to supervise banks and credit unions with more than $10 billion in assets, as well as certain nonbanks. Institutions are subject only to the requirements of relevant laws and regulations.

The report shares information regarding general supervisory and examination findings, communicates operational changes to the Bureau's supervisory program, and provides information on recent Bureau final rules. The information is disseminated to help institutions better understand how the Bureau examines institutions for compliance. The Bureau expects that the publication of Supervisory Highlights will continue to aid Bureau-supervised entities in their efforts to comply with federal consumer financial law. The document does not impose any new legal requirements.

Bureau examinations may result in supervisory recommendations to address problems that they find. These recommendations may include paying refunds or restitution, or taking actions to stop unlawful practices and promote future compliance such as implementing new policies, or improving training or monitoring. When appropriate, the Bureau opens investigations for potential enforcement actions based on information obtained during the supervisory process.

The latest edition of Supervisory Highlights is available at:
https://files.consumerfinance.gov/f/documents/bcfp_supervisory-highlights_issue-17_2018-09.pdf

Source link.

Comment: The report provides a summary of remedial actions, recently issued rules and guidance, and some of the new HMDA requirements under the Economic Growth, Regulatory Relief, and Consumer Protection Act (S. 2155).

Bureau of Consumer Financial Protection Issues Rule to Implement and Clarify New HMDA Amendments (08.31.2018)

WASHINGTON, D.C. — The Bureau of Consumer Financial Protection (Bureau) issued an interpretive and procedural rule to implement and clarify the requirements of section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act (the Act), which amended the Home Mortgage Disclosure Act (HMDA). The Bureau also released updates to the Filing Instructions Guide (FIG) for HMDA data collected in 2018 to incorporate the Act as implemented and clarified by the rule issued.

On May 24, 2018, the President signed the Act, which contains provisions that are intended to decrease the burden smaller depository institutions face in complying with HMDA and its implementing regulation, Regulation C. Some such institutions have raised questions about the application of the Act, and the rule issued seeks to provide clarification. Specifically, the rule clarifies that insured depository institutions and insured credit unions covered by a partial exemption have the option of reporting exempt data fields as long as they report all data fields within any exempt data point for which they report data; clarifies that only loans and lines of credit that are otherwise HMDA reportable count toward the thresholds for the partial exemptions; clarifies which of the data points in Regulation C are covered by the partial exemptions; assigns a non-universal loan identifier for partially exempt transactions for institutions that choose not to report a universal loan identifier; and clarifies the exception to the partial exemptions for negative Community Reinvestment Act examination history.

At a later date, the Bureau anticipates that it will initiate a notice-and-comment rulemaking to incorporate these interpretations and procedures into Regulation C and further implement the Act.

The interpretive and procedural rule issued is available at: https://files.consumerfinance.gov/f/documents/bcfp_hmda_interpretive-procedural-rule_2018-08.pdf

The updated Filing Instructions Guide (FIG) is available at: https://s3.amazonaws.com/cfpb-hmda-public/prod/help/2018-hmda-fig-2018-hmda-rule.pdf

Source link.

Comment: The Bureau explains that the new interpretive rule clarifies that insured depository institutions covered by a partial exemption have the option of reporting exempt data fields as long as they report all data fields within any exempt data point for which they report data.

FDIC actions and news

FDIC Releases Results of Summary of Deposits Survey (09.14.2018)

The Federal Deposit Insurance Corporation (FDIC) released the results of its annual survey of branch office deposits for all FDIC-insured institutions. The latest data are as of June 30, 2018.

The FDIC's Summary of Deposits (SOD) provides deposit totals for each of the more than 88,000 domestic offices operated by more than 5,500 FDIC-insured commercial and savings banks, savings associations, and U.S. branches of foreign banks. The SOD includes historical data going back to 1994 that can be analyzed using online reports, tables, and downloads.

SOD users can locate bank offices in a particular geographic area and create custom market share reports for state, county, and metropolitan statistical areas. Market share reports have been expanded to allow users to see market growth and market presence for specific institutions. The SOD is available at www5.fdic.gov/sod.

To receive annual updates of the SOD, go to the subscription page at www.fdic.gov/about/subscriptions/index.html.

Source link.

Proposed Rulemaking Regarding Reciprocal Deposit Treatment (09.13.2018)

The FDIC Board of Directors authorized publication of a Notice of Proposed Rulemaking on the treatment of reciprocal deposits. The NPR would conform the FDIC's current regulations with recent changes to Section 29 of the Federal Deposit Insurance Act made by Section 202 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which took effect on May 24, 2018. Conforming amendments to the FDIC's regulations governing deposit insurance assessments also are being recommended in the proposal. Comments on the NPR will be accepted for 30 days after publication in the Federal Register.

Highlights:

Section 202 of the Act amends Section 29 of the Federal Deposit Act to except a capped amount of reciprocal brokered deposits from treatment as brokered deposits for certain insured depository institutions. Section 202 defines terms including "reciprocal deposits," "covered deposits," and "agent institution."

The FDIC is proposing to incorporate these statutory definitions into section 337.6(e)(2) of the FDIC Rules and Regulations, without change.

Section 202 also confirms that the current statutory and regulatory rate restrictions for less than well capitalized institutions apply to reciprocal deposits that are excepted from treatment as brokered deposits. The FDIC is proposing conforming amendments to section 337.6(b)(2)(ii).

Additionally, the FDIC is proposing to make conforming amendments to its assessments regulations, Part 327 of the FDIC Rules and Regulations, to be consistent with the statutory definition of reciprocal deposits.

This rulemaking is the first part of a two-part effort to revisit the brokered deposit rules. The FDIC currently is working on the second part, which is planned for later this year and that will seek comment on the brokered deposit regulations more generally. We encourage comments not related to the implementation of Section 202 to be submitted as part of the broader rulemaking effort.

Comments on the NPR will be accepted for 30 days after publication in the Federal Register.

Source link.

Comment: Under the proposal, well-capitalized and well-rated institutions are not required to treat reciprocal deposits as brokered deposits up to the lesser of 20 percent of their respective total liabilities or $5 billion. The 30-day deadline for this NPR provides a short time frame for comment.

Interim Final Rules on Expanded Examination Cycle for Certain Small Insured Depository Institutions and U.S. Branches and Agencies of Foreign Banks (09.07.2018)

The FDIC and the other federal financial institution regulatory agencies have jointly adopted interim final rules (IFRs) permitting insured depository institutions (IDIs) with up to $3 billion in total assets, and that meet certain other criteria, to qualify for an 18-month on-site examination cycle. The implementation of these rules reduces regulatory burden on small, well-capitalized and well-managed institutions, while allowing the agencies to better focus supervisory resources on IDIs that may present supervisory concerns.

Highlights:

On August 29, 2018, the FDIC and the other federal financial institution regulatory agencies jointly issued the attached IFRs implementing Section 210 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (Economic Growth Act). Comments on the IFR are due October 29, 2018.

The IFRs raise from $1 billion to $3 billion the total asset threshold below which an IDI may qualify for an 18-month (rather than 12-month) on-site safety-and-soundness examination cycle.

As authorized by the Economic Growth Act, the agencies have determined that it is consistent with safety-and-soundness principles to permit institutions falling within this expanded total asset threshold, that received a

CAMELS composite rating of "1" or "2," and that meet certain other criteria, to qualify for an 18-month on-site examination cycle.

Other qualifying criteria include being well-capitalized, well-managed, not having undergone any change in control during the previous 12-month period, and not being subject to a formal enforcement proceeding or order.

The extended 18-month examination cycle applies similarly to qualifying U.S. branches or agencies of a foreign bank.

In all cases, the agencies reserve the right to examine more frequently if they deem it necessary.

This FIL rescinds and replaces FIL-02-2017 issued to announce the previous final rule under the same name.

Source link.

Comment: Great news for community banks across the country!

Supervisory Insights Journal – Summer 2018 (09.05.2018)

The Summer 2018 issue of Supervisory Insights features two articles of interest to examiners, bankers and supervisors. The first article addresses the business of bank lending to the oil and gas sector, and the second provides an overview of bank credit risk grading systems.

Supervisory Insights – Summer 2018 issue is available at www.fdic.gov/supervisoryinsights.

Highlights:

"Oil Price Volatility and Bank Performance: A View from the Supervisory Process" provides an overview of the specialized business of oil and gas (O&G) lending. The steep drop in oil prices beginning in 2014 tested the risk-management practices of insured banks active in O&G lending and other banks operating in geographic areas that depend on the O&G industry. This article shares FDIC observations from its surveillance efforts and supervisory activities relative to these institutions.

The information and analysis presented in the article "Credit Risk Grading Systems: Observations from a Horizontal Assessment" are drawn from examiner observations about the loan risk-rating systems at selected large state nonmember banks. This article illustrates how strong credit grading systems incorporate clearly identifiable processes and establish a sound governance framework.

The "Regulatory and Supervisory Roundup" provides an overview of recently released regulations and other items of interest.

Suggestions for article topics and requests for permission to reprint articles should be emailed to supervisoryjournal@fdic.gov. Requests for print copies should be emailed to publicinfo@fdic.gov.

Source link.

Comment: Must reading for energy lenders!

FDIC-Insured Institutions Reported $60.2 Billion in Second Quarter 2018 (08.23.2018)

Community Bank Net Income Increases to $6.5 Billion

- Quarterly Net Income Rose 25.1 Percent Over Second Quarter 2017 Income, Led by Higher Net Operating Revenue and a Lower Effective Tax Rate
- Community Bank Net Income Increased 21.1 Percent from the Second Quarter of 2017
- Margins Increased as Average Yields Outpaced Growth in Funding Costs
- Loan Balances Expanded 4.2 Percent from Second Quarter 2017
- Noncurrent Loan Rate Declined, While Net Charge-Off Rate Remained Stable

"The banking industry experienced continued improvement in net interest income, noninterest income and loan performance this quarter. However, the interest-rate environment coupled with competitive lending conditions have led to heightened exposure to interest-rate, liquidity, and credit risks. The industry must continue to position itself to be resilient through economic cycles."

-- FDIC Chairman Jelena McWilliams

Highlights from the Second Quarter 2018 Quarterly Banking Profile

Industry Net Income Rose 25.1 Percent over the Past 12 Months, Led by Higher Net Operating Revenue and a Lower Effective Tax Rate: Quarterly net income totaled $60.2 billion for the second quarter, up $12.1 billion (25.1 percent) from a year ago. Higher net interest income and noninterest income, coupled with a lower effective tax rate, contributed to the increase in industry's net income. The average return on assets increased to 1.37 percent, up from 1.13 percent in the second quarter of 2017.

Community Bank Net Income Increased 21.1 Percent from Second Quarter 2017: In the second quarter, 5,111 insured institutions identified as community banks reported $6.5 billion in net income, an increase of $1.1 billion (21.1 percent) from a year earlier. Higher net operating revenue and a lower effective tax rate boosted second-quarter net income. Net operating revenue rose by $1.8 billion (8 percent) from the second quarter of 2017, led by higher net interest income (up $1.6 billion, or 9 percent) and noninterest income (up $201.9 million, or 4.5 percent). Loan-loss provisions declined by $193.5 million (22.5 percent), while noninterest expenses were $934.2 million (6.6 percent) higher.

Source link.

Comment: The community banking industry has seen its profits surge under a strong economy and tax reform.

OCC actions and news

OCC Releases Bank Supervision Operating Plan for Fiscal Year 2019 (09.25.2018)

WASHINGTON — The Office of the Comptroller of the Currency (OCC) released its bank supervision operating plan for fiscal year (FY) 2019.

The plan provides the foundation for policy initiatives and for supervisory strategies as applied to individual national banks, federal savings associations, federal branches, federal agencies, and technology service providers. OCC staff members use this plan to guide their supervisory priorities, planning, and resource allocations.

Supervisory strategies for FY 2019 focus on

- cybersecurity and operational resiliency.
- commercial and retail credit loan underwriting, concentration risk management, and the allowance for loan and lease losses.

- Bank Secrecy Act/anti-money laundering (BSA/AML) compliance management.
- compliance-related change management to address regulatory requirements.
- internal controls and end-to-end processes necessary for product and service delivery.

The OCC will provide periodic updates about supervisory priorities through the Semiannual Risk Perspective in the fall and spring.

Source link.

Comment: Periodic updates about supervisory priorities and horizontal risk assessments are provided in the Semiannual Risk Perspective report. That report is published by the OCC National Risk Committee in January and July, drawing on mid-year and year-end data.

OCC Reports Mortgage Performance Unchanged (09.21.2018)

WASHINGTON—Performance of first-lien mortgages remained largely unchanged during the second quarter of 2018 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, Second Quarter 2018,* showed 95.6 percent of mortgages included in the report were current and performing at the end of the quarter, compared to 95.4 percent a year earlier.

The report also showed that servicers initiated 29,612 new foreclosures during the second quarter of 2018, a 20.6 percent decrease from the previous quarter and a 17.7 percent decrease from a year ago. Servicers implemented 32,655 mortgage modifications in the second quarter of 2018, and 64.1 percent of the modifications reduced borrowers' monthly payments.

The first-lien mortgages included in the OCC's quarterly report comprise 33 percent of all residential mortgages outstanding in the United States or approximately 17.5 million loans totaling $3.28 trillion in principal balances. This report provides information on mortgage performance through June 30, 2018, and it can be downloaded from the OCC's website, www.occ.gov.

Related Link

- *OCC Mortgage Metrics Report, Second Quarter 2018* (PDF)

Source link.

Comment: Foreclosure activity has increased from the previous quarter. Reporting servicers initiated 34,519 new foreclosures during the fourth quarter of 2017, a 0.7 percent increase from the previous quarter and a 24.1 percent decrease from a year earlier. Servicers implemented 21,866 mortgage modifications in the fourth quarter of 2017. Seventy-nine percent of the modifications reduced borrowers' monthly payments.

OCC Hosts Credit Risk and Operational Risk Workshops in San Francisco (09.13.2018)

WASHINGTON — The Office of the Comptroller of the Currency (OCC) will host two workshops at the Holiday Inn San Francisco-Golden Gateway, San Francisco, Calif., November 6-7, for directors of national community banks and federal savings associations supervised by the OCC.

The Credit Risk workshop on November 6 focuses on credit risk within the loan portfolio, such as identifying trends and recognizing problems. The workshop also covers the roles of the board and management, how to stay informed of changes in credit risk, and how to effect change.

The Operational Risk workshop on November 7 focuses on the key components of operational risk—people, processes, and systems. The workshop also covers governance, third-party risk, vendor management, and cybersecurity.

The workshop fee is $99 and open to directors of national community banks and federal savings associations supervised by the OCC. Participants receive course materials and assorted supervisory publications. The workshop is limited to the first 35 registrants.

The workshop is one of 25 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.

Source link.

Updated Comptroller's Handbook Booklet - Deposit-Related Credit (09.12.2018)

The Office of the Comptroller of the Currency (OCC) updated "Deposit-Related Credit" booklet of the Comptroller's Handbook.

Rescissions

The updated "Deposit-Related Credit" booklet replaces the booklet of the same title issued in March 2015. Also replaced is OCC Bulletin 2015-17, "Deposit-Related Credit: Revised Comptroller's Handbook Booklet."

Note for Community Banks

The "Deposit-Related Credit" booklet applies to examinations of all national banks and federal savings associations engaged in deposit-related credit.

Highlights

The updated booklet

provides general guidance on the risks associated with deposit-related credit products, such as check credit, overdraft protection, and deposit advance products.

includes updates due to the rescission of OCC Bulletin 2013-40, "Deposit Advance Products: Final Supervisory Guidance," and the issuance of OCC Bulletin 2018-14, "Installment Lending: Core Lending Principles for Short-Term, Small-Dollar Installment Lending."

provides information regarding the Military Lending Act as implemented by the U.S. Department of Defense's 32 CFR 232.

incorporates references for OCC Bulletin 2017-21, "Third-Party Relationships: Frequently Asked Questions to Supplement OCC Bulletin 2013-29," and OCC Bulletin 2017-43, "New, Modified, or Expanded Bank Products and Services: Risk Management Principles."

incorporates the prohibition in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 against unfair, deceptive, or abusive acts or practices.

Refer to the "Table of Updates Since Publication" in the booklet for a full listing of updates.

Source link.

OCC Releases Strategic Plan – Fiscal Years 2019 – 2023 (09.2018)

The U.S. federal banking system has been a key source of strength for the nation and its economy for more than 150 years. The world's most respected banking system requires its preeminent prudential supervisor to ensure the nation can continue to rely on strength and vibrancy in the banking system for the next 150 years. This strategic plan affirms the Office of the Comptroller of the Currency's (OCC) mission and vision and articulates three broad goals. These goals are grounded in the agency's mission and will guide the OCC's work over the next five years to ensure the federal banking system continues to operate in a safe, sound, and fair manner and complies with applicable laws and regulations.

This strategic plan promotes economic opportunity and encourages job creation, as the OCC works to minimize unnecessary regulatory burden in the federal banking system. The OCC fosters an environment in which banks can meet the needs of their customers and achieve their business goals while safely managing the risk their operations inherently face. This plan also sets high but achievable objectives for enhancing the effectiveness and efficiency of the OCC's operations, so the agency delivers the greatest possible value for every assessment dollar collected.

Source link.

Comment: The plan, 1 1/2 pages long, is to be used by OCC managers and staff to guide their supervisory priorities, planning, and resource allocations for FY 2019, the OCC said in a press release.

Updated Comptroller's Handbook Booklet on Other Real Estates Owned (08.31.2018)

The Office of the Comptroller of the Currency (OCC) updated "Other Real Estate Owned" booklet of the Comptroller's Handbook, which provides guidance to examiners on banks' acquisition, reporting, management, and disposition of other real estate owned (OREO). The updated booklet includes accounting changes for foreclosed property under contract, in accordance with the Financial Accounting Standards Board's Accounting Standards Codification Subtopic 360-20, Subtopic 610-20, and Topic 606. Other updates were made to the booklet, as summarized in the "Highlights" section of this OCC Bulletin and in the "Table of Updates Since Publication" section of the OREO booklet.

Source link.

OCC Hosts Virginia Workshop for Board Directors and Bank Management (08.30.2018)

WASHINGTON — The Office of the Comptroller of the Currency (OCC) will host a workshop in Charlottesville, Va., at the Holiday Inn Charlottesville-University Area, October 2-3, 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: Keys to Success for Directors and Senior Management 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 course materials, assorted supervisory publications, and a Dictionary of Banking Terms. The workshop is limited to the first 35 registrants.

The workshop is one of 25 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.

Source link.

OCC Seeks Comments on Modernizing Community Reinvestment Act Regulations (08.28.2018)

WASHINGTON—The Office of the Comptroller of the Currency released an Advance Notice of Proposed Rulemaking (ANPR) seeking comment on the best ways to modernize the regulatory framework implementing the Community Reinvestment Act (CRA).

"As a long-time banker, I have seen firsthand the benefit of CRA investment and how it makes communities vibrant. I applaud the effort of community development practitioners and bankers who work together to make an important difference in our nation's neighborhoods," said Comptroller of the Currency Joseph M. Otting. "I have also seen how limitations in the current CRA regulation can fail to provide consideration to a bank that wants to lend and invest in a community with a need for capital, including many low- and moderate-income areas. Unfortunately, the operation of the current CRA regulation can result in restricted resources. It is time for a national discussion on how we can make the CRA work better."

The CRA was enacted in 1977 to encourage insured depository institutions to help meet the credit needs of their communities, including low- and moderate-income (LMI) neighborhoods, consistent with the safe and sound operation of such banks. In recent years, feedback has mounted that the CRA needs reform, including feedback gathered by the Department of the Treasury in 2017 and 2018, Treasury recommendations published in April 2018, and feedback gathered by federal banking agencies in their decennial review of regulations under the Economic Growth and Regulatory Paperwork Reduction Act.

Through this ANPR, the OCC seeks stakeholder comment on ways to modernize the regulations that implement the CRA, in order to better achieve the statute's original purpose, increase lending and investment where it is needed most, and reduce the burden associated with reporting and assessing CRA performance.

The ANPR solicits comment on a number of questions regarding improvements to the CRA regulations related to

- increasing lending and services to people and in areas that need it most, including in LMI areas;
- clarifying and expanding the types of activities eligible for CRA consideration;
- revisiting how assessment areas are defined and used;
- establishing metric-based thresholds for CRA ratings;
- making bank CRA performance more transparent;
- improving the timeliness of regulatory decisions related to CRA; and
- reducing the cost and burden related to evaluating performance under the CRA.

"Stakeholders of all kinds have spoken up, calling the current regulatory framework for the CRA outdated, complex, and cumbersome," Comptroller Otting said. "Many have complained of the difficulty of getting capital to critical areas, significant administrative burden, lack of CRA consideration for important development activities, and failure to adapt to advances in banking such as interstate branching and digitization of services.

"We are issuing today's ANPR to provide an open opportunity for all stakeholders to provide their comments on how to improve our approach to the CRA so that insured depository institutions continue to meet the credit needs of their communities, including those in LMI neighborhoods, consistent with the safe and sound operation of these institutions," the Comptroller said.

Comments received regarding this ANPR may inform the development of more specific policy proposals or future rulemakings.

Comments on this ANPR will be accepted for 75 days after publication in the Federal Register.

Source link.

Comment: This is an important first step! The focus of the ANPR is closely aligned with four key areas for CRA reform identified by the US Treasury Department in its April 2018 memorandum regarding CRA modernization recommendations.

Federal Reserve actions and news

Summary of Commentary on Current Economic Conditions by Federal Reserve District (09.12.2018)

Commonly known as the Beige Book, this report is published eight times per year. Each Federal Reserve Bank gathers anecdotal information on current economic conditions in its District through reports from Bank and Branch directors and interviews with key business contacts, economists, market experts, and other sources. The Beige Book summarizes this information by District and sector. An overall summary of the twelve district reports is prepared by a designated Federal Reserve Bank on a rotating basis.

Source link.

Other federal action and news

CSBS Opposes House Bills that Would Weaken State Banking System (09.12.2018)

Washington, D.C. – In separate letters to Congress, the Conference of State Bank Supervisors (CSBS) stated its opposition to House bills now being considered that would preempt state regulations regarding data breach notifications and impose a new fee on state-chartered banks.

The bills at issue: H.R. 6743, the "Consumer Information Notification Requirement Act," and H.R. 6741, the "Federal Reserve Reform Act of 2018." Both bills are being considered by the House Financial Services Committee.

Under H.R. 6741, state-chartered banks would be required to pay a new fee for supervisory examinations conducted by the Federal Reserve. This provision amounts to a "tax on state-chartered banks…that will hit the smallest community banks the hardest," said John W. Ryan, CSBS president and CEO in his letter. He added that these banks would "would pay more for the same level of supervision."

Under H.R. 6743, expanded federal authority would prevent state regulators from enforcing state data breach notification laws. The bill would abandon the regulatory balance, struck decades ago via the Gramm-Leach-Bliley law, that according to Ryan, "establishes a floor for data breach and data security laws and expressly reserves the right of states to enact more stringent data breach and privacy laws for the protection of their citizens."

CSBS's letters are attached here and here.

Source link.

CSBS to Pursue Litigation Against OCC (09.12.2018)

Washington, D.C. -- State financial regulators will renew their litigation efforts against the Comptroller of the Currency (OCC). The issue: the OCC's recent decision to create a special purpose charter for financial technology firms.

At its August 28 meeting, the Board of Directors of the Conference of State Bank Supervisors (CSBS) approved moving forward with litigation against the OCC. The case will be filed at a time deemed appropriate.

A federal court had ruled prior litigation as not yet ripe for consideration. With the OCC's July 31 announcement creating a federal fintech charter, the CSBS Board decided to reaffirm its commitment to challenge the OCC's action.

Here is CSBS's statement on its original court filing.

Source link.

Comment: In its initial filing, the CSBS argued that the OCC's 2017 proposal to issue 'special purpose national bank' charters to fintech companies exceeded the authority granted to the OCC by Congress under the National Bank Act and other federal banking laws to charter institutions that engage in the "business of banking."

CSBS - Rural Communities Continue to Struggle with Shortage of Appraisers (09.07.2018)

CSBS released this week a report highlighting the shortage of appraisers in rural communities, a challenge further exacerbated by a retiring appraiser workforce and limited waiver options for communities unable to hire and train enough appraisers for the area. CSBS and state regulators based their observations on CSBS survey data, reporting from examiners and regulators across the country, and data from the Appraisal Subcommittee of the FFIEC.

Every year, CSBS conducts annual outreach to the community banking industry as part of the annual CSBS-Federal Reserve Community Banking in the 21st Century Research and Policy Conference. As part of this initiative, in 2017 CSBS deployed its Five Questions for Five Bankers to industry stakeholders to understand the challenges and opportunities faced by community banks. These survey respondents consistently noted that regional shortages of qualified appraisers have led to significant delays in the home purchase process. Kentucky, New Mexico, and Utah all reported a shortage of appraisers. In addition, state regulators from Michigan, Montana, Nebraska, North Dakota, Tennessee, and Wisconsin similarly noted that federal appraisal rules cause significant burdens particularly in rural areas.

This is not the first time state regulators have expressed concern about the lack of appraisers in rural communities. In 2017 and earlier this year, CSBS sent letters supporting limited appraisal waivers for certain communities. And this August, North Dakota was the first state to request a real estate appraisal waiver that would allow local banks to make valuation assessments on their own.

Source link.

Comment: Sec. 103 – Exemption from Appraisals of Real Property Located in Rural Areas of S. 2155 grants relief but awaiting guidance. The agencies are reviewing the statutory provisions to determine whether further action is necessary.

CSBS Current Expected Credit Loss Readiness Tool System (09.2018)

The CSBS State Supervisory Processes Committee, in consultation with state examiners, has developed and approved the above tool to help financial institutions prepare for the coming changes associated with the Financial Accounting Standards Board's (FASB) release of Accounting Standards Update (ASU) 2016-13, Financial Instruments—Credit Losses (Topic 326) commonly referred to as the Current Expected Credit Losses (CECL) method.

The tool provides a framework that a financial institution could use to plan for the eventual implementation of these accounting changes. CECL will have a significant impact on the way a financial institution estimates and provides for credit losses and early preparation is prudent. The associated examiner guide provides talking points, limitations, and other information examiners might find helpful if the tool is encountered in an examination. As explained in the examiner guide, the tool is not intended to establish regulatory expectations or deadlines.

This tool is offered as a resource and should be used as-needed. While some institutions may already be planning for CECL implementation, smaller institutions, in particular, reported difficulty understanding the changes and sought a straightforward tool to begin the planning process. This tool offers a means to get started and helps an institution set internal goals for the different implementation steps.

It is understood that each institution will approach the implementation of CECL differently, and this tool is not an attempt to standardize the implementation process or set forth regulatory expectations. Questions about the tool or examiner guide should be directed to Kyle Thomas (kthomas@csbs.org or 202-407-7131).

Source link.

Comment: The CSBS explains that the tool can be a starting point for institutions who are unsure how to proceed with CECL transition planning. The information and dates within the tool are meant to serve as suggestions but not requirements by which institutions must adhere.

FinCEN - Exceptive Relief from Beneficial Ownership Requirements for Legal Entity Customers of Rollovers, Renewals, Modifications, and Extensions of Certain Accounts (09.07.2018)

The Financial Crimes Enforcement Network (FinCEN) granted exceptive relief under the authority set forth in 31 U.S.C. § 5318(a)(7) and 31 CFR § 1010.970(a) to covered financial institutions from the obligations of the Beneficial Ownership Requirements for Legal Entity Customers (Beneficial Ownership Rule)1 1. 31 CFR §1010.230. “Covered financial institutions” are banks, brokers or dealers in securities, mutual funds, futures commission merchants, and introducing brokers in commodities. and its requirement to identify and verify the identity of the beneficial owner(s) when a legal entity customer opens a new account as a result of the following:

- A rollover of a certificate of deposit (CD) (as defined below);
- A renewal, modification, or extension of a loan (e.g., setting a later payoff date) that does not require underwriting review and approval;
- A renewal, modification, or extension of a commercial line of credit or credit card account (e.g., a later payoff date is set) that does not require underwriting review and approval; and
- A renewal of a safe deposit box rental.

The exception only applies to the rollover, renewal, modification or extension of any of the types of accounts listed above occurring on or after May 11, 2018, and does not apply to the initial opening of such accounts.2 2. Covered financial institutions are not excepted from the obligation to identify and verify the identity of the beneficial owner(s) of legal entity customers at the initial account opening for such accounts occurring on or after May 11, 2018. Notwithstanding this exception, covered financial institutions must continue to comply with all other applicable anti-money laundering (AML) requirements under the Bank Secrecy Act (BSA) and its implementing regulations, including program, recordkeeping, and reporting requirements.

Source link.

Comment: This permanent exceptive relief is much appreciated, but the reference to 'underwriting' muddies the waters for 'renewal, modification, or extension of a loan.'

FTC – Anatomy of a Fake Check Scam (09.05.2018)

Fake checks drive many types of scams – like those involving phony prize wins, fake jobs, mystery shoppers, online classified ad sales, and others. In a fake check scam, a person you don't know asks you to deposit a check – sometimes for several thousand dollars and usually for more than what you are owed – and wire some of the money back to that person. The scammers always have a good story to explain the overpayment – they're stuck out of the country, they need you to cover taxes or fees, you need to buy supplies, or something else. But by the time your bank discovers you've deposited a bad check, the scammer already has the money you sent, and you're stuck paying the rest of the check back to the bank.

The Federal Trade Commission receives tens of thousands of reports each year about fake checks. Over the last three years, the number of complaints has steadily increased, and so have the dollars lost.

The FTC's new infographic, developed with the American Bankers Association Foundation, offers some tip-offs to rip-offs and what to do if you get a check from someone you don't know.

Please share this information with others. Victims may be embarrassed to talk about their experiences, but you can help. A simple phone call, email or text, saying "Look what I just found" and sharing this information may make a difference in someone else's life.

Source link.

Publications, articles, reports, studies, testimony & speeches

Chicago Fed Survey shows steady growth in July and early August (08.12.2018)

The Chicago Fed Survey of Business Conditions (CFSBC) Activity Index edged down to +4 from +7, suggesting that growth in economic activity remained at a moderate pace in July and early August. The CFSBC Manufacturing Activity Index increased to +11 from +4, while the CFSBC Nonmanufacturing Activity Index decreased to a neutral reading from +11.

• Respondents' outlooks for the U.S. economy for the next six to 12 months improved, and remained optimistic on balance. Respondents with optimistic outlooks highlighted good economic data, increased demand for their firms' products, and the federal tax reform. Respondents with pessimistic outlooks highlighted elevated policy uncertainty under the current U.S. presidential administration, particularly in regard to trade policy.

• The pace of current hiring picked up, while respondents' expectations for the pace of hiring over the next six to 12 months were unchanged. The current hiring index moved into positive territory, but the hiring expectations index remained negative.

• The pace of current capital spending increased, as did respondents' expectations for the pace of capital spending over the next six to 12 months. While the current capital spending index remained negative, the capital spending expectations index turned positive.

• The wage cost pressures index rose into positive territory, and the nonwage cost pressures index increased, remaining positive.

Source link.

Selected federal rules – proposed

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

Posted Date	SUMMARY OF PROPOSED RULE
09.18.2018	High Volatility Commercial Real Estate - Three federal banking agencies invited public comment on a proposal to modify the agencies' capital rules for high volatility commercial real estate exposures, as required by the Economic Growth, Regulatory Relief, and Consumer Protection Act. The proposal also asks for comment on certain terms contained in the revised definition of high volatility commercial real estate. The changes, when finalized, would apply to all banking organizations subject to the agencies' capital rules. Comments will be accepted for 60 days after publication in the Federal Register.
09.13.2018	Reciprocal Deposits - The FDIC Board of Directors authorized publication of a Notice of Proposed Rulemaking on the treatment of reciprocal deposits. The NPR would conform the FDIC's current regulations with recent changes to Section 29 of the Federal Deposit Insurance Act made by Section 202 of the Economic Growth, Regulatory Relief, and Consumer Protection Act, which took effect on May 24, 2018. Conforming amendments to the FDIC's regulations governing deposit insurance assessments also are being recommended in the proposal. Comments on the NPR will be accepted for 30 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:
01.01.2018	Regulatory Capital Rules: Retention of Certain Existing Transition Provisions for Banking Organizations That Are Not Subject to Advanced Approaches Capital Rules. The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the agencies) are adopting a final rule to extend the regulatory capital treatment applicable during 2017 under the regulatory capital rules (capital rules) for certain items. These items include regulatory capital deductions, risk weights, and certain minority interest limitations. The relief provided under the final rule applies to banking organizations that are not subject to the capital rules' advanced approaches (non-advanced approaches banking organizations). Specifically, for these banking organizations, the final rule extends the current regulatory capital treatment of mortgage servicing assets, deferred tax assets arising from temporary differences that could not be realized through net operating loss carrybacks, significant investments in the capital of unconsolidated financial institutions in the form of common stock, non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, and common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest exceeding the capital rules' minority interest limitations. Under the final rule, advanced approaches banking organizations continue to be subject to the transition provisions established by the capital rules for the above capital items. Therefore, for advanced approaches banking organizations, their transition schedule is unchanged, and advanced approaches banking organizations are required to apply the capital rules' fully phased-in treatment for these capital items beginning January 1, 2018.

05.16.2018	*Beneficial Ownership Requirements for Legal Entity Customers of Certain Financial Products and Services with Automatic Rollovers or Renewals*. The Financial Crimes Enforcement Network (FinCEN) is issuing this ruling to provide a 90-day limited exceptive relief to covered financial institutions from the obligations of the Beneficial Ownership Requirements for Legal Entity Customers (31 CFR § 1010.230) (Beneficial Ownership Rule) with respect to certain financial products and services that automatically rollover or renew (i.e., certificate of deposit (CD) or loan accounts) and were established before the Beneficial Ownership Rule's Applicability Date, September 11, 2018. This exception begins, retroactively, on September 11, 2018, and will expire on September 9, 2018. During this time, FinCEN will determine whether and to what extent additional exceptive relief September be appropriate for such financial products and services that were established before September 11, 2018, but are expected to rollover or renew after such date.
06.01.2018	*Federal Mortgage Disclosure Requirements Under the Truth in Lending Act (Regulation Z).* The Bureau of Consumer Financial Protection (Bureau) is amending Federal mortgage disclosure requirements under the Real Estate Settlement Procedures Act (RESPA) and the Truth in Lending Act (TILA) that are implemented in Regulation Z. The amendments relate to when a creditor September 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.
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 depositary 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.
09.17.2018	Amendment to the Annual Privacy Notice Requirement Under the Gramm-Leach-Bliley Act (Regulation P). The Bureau of Consumer Financial Protection (Bureau) is amending Regulation P, which requires, among other things, that financial institutions provide an annual notice describing their privacy policies and practices to their customers. The amendment implements a December 2015 statutory amendment to the Gramm-Leach-Bliley Act providing an exception to this annual notice requirement for financial institutions that meet certain conditions.
10.01.2018	TRID 2.0 The Consumer Financial Protection Bureau (CFPB) 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. While the amendments became effective 60 days after publication in the Federal Register, mandatory compliance with the amendments is not required until October 1, 2018.
04.01.2019	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 September 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. For additional information, 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 September be criminal in nature.
SDN	Specially Designated National
TILA	Truth in Lending Act
TIN	Tax Identification Number
Treasury	U.S. Department of Treasury