

# CAPITOL COMMENTS

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A Summary of Federal  
Legislative & Regulatory  
Activity

# August 2016

## Capitol Comments

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

### Joint federal agency issuances

#### Comments Requested on Streamlined Call Report

The federal banking agencies are calling for comments on a proposed, new, and streamlined Call Report for small financial institutions. The [proposal](#), from the FDIC, OCC, and Federal Reserve, would affect financial institutions with domestic offices only and less than \$1 billion in total assets, which is 90 percent of institutions required to file Call Reports. The proposal would reduce the Call Report from 85 to 61 pages and result in the removal of about 40% (950) of the data items.

Some data items would be eliminated and reporting frequency would be reduced for others. Five schedules would be consolidated into a single new supplemental schedule for certain complex and specialized activities.

[FFIEC press release](#). According to the [Federal Reserve entry](#), the deadline for comments is October 11, 2016.

*Comment: The banking community is encouraged by this proposal and hopes that it is just one of many that will lessen the regulatory burden on community banks and allow them to devote more of their time and assets to serving customers.*

#### Joint agencies' issue information and FAQs on diversity

The Federal Reserve, FDIC, and OCC announced the release of [information](#) on how financial institutions may begin to submit self-assessments of their diversity policies and practices as of year-end 2015, and issued [FAQs](#) about the process.

*Comment: A financial institution is not required to have a diversity policy. Below is from the document entitled [“Final Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies”](#) (issued on June 10, 2015) defining a bank's obligation to satisfy the new standards as follows:*

*To this end, the Agencies have added the following language: “This document is a general statement of policy under the Administrative Procedure Act, [5 U.S.C. 553](#). It does not create new legal obligations. Use of the Standards by a regulated entity is voluntary.” The Agencies believe that this will clarify the confusion noted above.*

*The federal agencies are charged with assessing a bank's diversity policies and practices. While the bank is not mandated to meet any objective requirements including having diversity policies and procedures, the agencies may take that into consideration when making an assessment of the bank's diversity efforts. Additionally, the focus is on institutions with 100 or more employees - the more you approach or exceed that threshold, the more pressure there will be to comply with the framework.*

*As far as what, if anything, a bank is required to submit, below is from the FAQ:*

*4. Are regulated entities required to conduct a self-assessment and provide the results to their regulators?*

*The Policy Statement states that regulated entities' self-assessments of their diversity policies and practices are voluntary, and submissions of information regarding those self-assessments to their primary federal financial regulator are also voluntary.*

## **TILA threshold adjustments to consumer credit and leasing proposed**

The Federal Reserve and the CFPB today issued a proposal detailing the method that will be used to adjust the thresholds for exempting certain consumer credit and lease transactions from the [Truth in Lending Act](#) and [Consumer Leasing Act](#). Comments are due September 6, 2016.

*Comment: These are annual adjustments required by the Dodd Frank Act. The Dodd-Frank Act amended TILA by requiring that the dollar threshold for exempt consumer credit transactions be adjusted annually by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). If there is no annual percentage increase in the CPI-W, the Board and CFPB will not adjust this exemption threshold from the prior year. The proposal would memorialize this as well as the agencies' calculation method for determining the adjustment in years following a year in which there is no annual percentage increase in the CPI-W.*

## **Proposal on annual inflation adjustment small loan HPML exemption**

The CFPB, the Federal Reserve, and the OCC issued a [proposal](#) detailing the method that will be used to make annual inflation adjustments to the threshold for exempting small loans from higher priced mortgage loan appraisal requirements. Comments are due on September 6, 2016.

*Comment: The Agencies' rules exempted, among other loan types, transactions of \$25,000 or less, and required that this loan amount be adjusted annually based on any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). If there is no annual percentage increase in the CPI-W, the OCC, the Board and the CFPB will not adjust this exemption threshold from the prior year. The proposal would memorialize this as well as the agencies' calculation method for determining the adjustment in years following a year in which there is no annual percentage increase in the CPI-W.*

*Rather than simply discuss the impact of the CFPB's consumer price index adjustment, community banks need to comment and request an update to the exemption threshold from \$25,000 to \$50,000. Community banks are having a tough time finding appraisers in rural areas for homes with values often barely above \$25,000. When they do find them, the appraisers often charge a premium for their time and travel and are not familiar with the area. The cost to consumers can be more than one percent of the purchase price of the house. Raising the threshold is necessary to encourage and assist responsible home sales and home ownership in rural areas.*

## **CFPB posts notice of FinCEN and HUD resources for HMDA filers**

The CFPB [posted a notice](#) regarding resources available from FinCEN and HUD for financial institutions required to file HMDA data.

*Comment: Beginning with data collected in 2017, financial institutions will file their HMDA data with the CFPB rather than the Federal Reserve. These materials are also accessible from the FFIEC website: 1) Filing instructions for HMDA data collected in 2017; 2) Filing instructions for HMDA data collected in 2018; 3) Technology preview; and 4) Frequently asked questions. Appendix A to Regulation C provides instructions for completing the loan/application register for HMDA data collected in 2017 and submitted in 2018, but not for HMDA data collected in 2018 and submitted in 2019.*

## **Joint agencies' issue report on capital requirements for mortgage servicing assets**

The Consolidated Appropriations Act, 2016, requires the Fed, OCC, FDIC, and NCUA to jointly conduct a study and issue [a report](#) on the appropriate capital requirements for mortgage servicing assets (MSAs) for banking institutions and federally insured credit unions. The [executive summary](#) included with the report includes a link to [key conclusions](#).

*Comment: An MSA is created when a firm retains the right to service a loan that it sells to a third party, such as an issuer of mortgage-backed securities, and certain other conditions are met.*

## CFPB actions

### CFPB updates 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 upcoming publication date (and for some changes 18 months) to implement the rules.

### CFPB's principles for the future of loss mitigation

The CFPB created a [document](#) outlining four principles, Accessibility, Affordability, Sustainability, and Transparency, that provide a framework for discussion about the future of loss mitigation as the nation moves beyond the housing and economic crisis that began in 2007. As HAMP is phased out, the CFPB is considering the lessons learned from HAMP while looking forward to the continuing loss mitigation needs of consumers in a post-HAMP world. These principles build on, but are distinct from, the backdrop of the CFPB's mortgage servicing rules and its supervisory and enforcement authority. The document does not establish binding legal requirements. The principles are intended to complement ongoing discussions among industry, consumer groups and policymakers on the development of loss mitigation programs that span the full spectrum of both home retention options such as forbearance, repayment plans and modifications, and home disposition options such as short sales and deeds-in-lieu.

*Comment: See also the [paper](#) issued by the Treasury, HUD, and FHFA.*

### CFPB proposes to update TRID

The CFPB released a proposal to update its [TILA-RESPA Integrated Disclosure rule](#) to memorialize informal guidance and offer clarifications. Among the proposed changes are updates to the tolerance provisions for the total of payments, clarification that recording fees and transfer taxes may be charged in connection with housing-assistance lending, an extension of the rules coverage to all cooperative units, and clarification about how a creditor may provide separate disclosure forms to the consumer and seller. The proposal may be most notable for the issues it didn't address—technical error resolution and simultaneous issue of title policies. Comments will be accepted until October 18, 2016. Click here to see the [Federal Register entry](#).

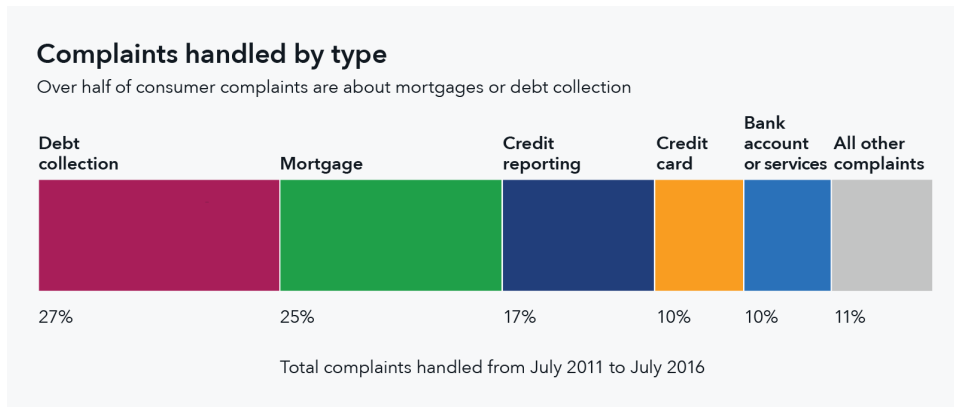
### CFPB updates index to TRID Q&As

The CFPB issued an [updated index](#) to questions and answers from the Outlook Live webinars that included the programs on both March 10 and April 12, 2016. The helpful index identifies which Outlook Live webinar addressed the subject in question. Don't forget that Outlook Live webinars are archived and available for additional training. To access, [click here](#).

## CFPB on consumer complaints

The CFPB posted a [blog](#) on the complaints they have received since they opened their doors five years ago.

*Comment: Here is a countdown of the categories in which the CFPB has received the most complaints: 5. Bank accounts and services; 4. Credit cards; 3. Credit reporting; 2. Mortgages; 1. Debt collection. Here is a graphic the CFPB shared on the complaints they have received:*



## CFPB study of third-party debt collection operations

The CFPB conducted a survey of debt collection firms and vendors to the debt collection industry. The [study](#) consisted of a written survey that was sent to debt collection firms, telephone interviews with a subset of the respondents to the survey, and telephone interviews with vendors. The CFPB asked questions about employees, type of debt collected, clients, vendors, software, policies and procedures for consumer interaction, disputes, furnishing data to credit CFPBs, litigation, and compliance. This report describes the survey and summarizes survey responses.

## CFPB releases outline debt collector/buyer proposals under consideration

To protect consumers more effectively, the CFPB has decided to consider issuing debt collection regulations that implement the FDCPA and other statutory authorities and that cover the activities of debt collectors and debt buyers. In that regard, the CFPB released a [document outlining the debt collection proposals](#) under consideration.

*Comment: The proposals are merely options the CFPB is considering. According to the release, whichever option is eventually chosen wouldn't apply to banks and other first-party creditors. Covered persons under the Dodd-Frank Act include not only debt collectors covered by the FDCPA, but also creditors who are collecting or attempting to collect on debts that relate to a consumer financial product or service. That's the good news. The not so good news is that the CFPB plans rulemaking for first-party debt collectors at a future date. Banks would be wise to comply with the Fair Debt Collection Practices Act to the extent possible. Additionally, part of your vendor management should be to make sure your third-party debt collection professionals are complying with the FDCPA.*

## CFPB report spotlights credit card complaints

The CFPB released a [monthly complaint snapshot](#) highlighting consumer complaints about credit cards. The report shows that consumers continue to complain about trouble receiving clear information from their credit card issuers regarding creditworthiness, and the assessment of payments and fees. This month's report also highlights trends seen in complaints coming from the state of Washington. As of July 1, 2016, the CFPB has handled approximately 930,700 total complaints across all products.

*Comment: Some of the findings regarding credit cards include:*



- *Consumer perceive unfairness in credit decisions*
- *Consumers confused over how payments are applied to accounts with multiple balances*
- *Credit card fees not adequately disclosed*
- *Consumers misled about reward programs*

## CFPB adds resource for HMDA

The CFPB added a number of new HMDA resources to the [Home Mortgage Disclosure Act rule implementation page](#) on its website to assist in determining whether a transaction is HMDA reportable under the amended rule.

*Comment: Send this to the person in your bank responsible for HMDA compliance.*

## CFPB proposal on payday lending published in Federal Register

The CFPB [proposed](#) to establish 12 CFR 1041, which would contain regulations creating consumer protections for certain consumer credit products—payday, vehicle title, and certain high-cost installment loans—was published in the Federal Register on July 22, 2016. The proposal contains proposed rules on (1) ability-to-repay requirements and alternative requirements for covered short-term loans, (2) ability-to-repay requirements and alternative requirements for longer-term loans, and payment practices. [Comments](#) are due on or before October 7, 2016.

*Comment: The CFPB's proposal would apply to two types of covered loans. First, it would apply to short-term loans that have terms of 45 days or less, including typical 14-day and 30-day payday loans, as well as short-term vehicle title loans that are usually made for 30-day terms. Second, the proposal would apply to longer-term loans with terms of more than 45 days that have (1) a total cost of credit that exceeds 36 percent; and (2) either a lien or other security interest in the consumer's vehicle or a form of "leveraged payment mechanism" that gives the lender a right to initiate transfers from the consumer's account or to obtain payment through a payroll deduction or other direct access to the consumer's paycheck. Included among covered longer-term loans is a subcategory loans with a balloon payment, which require the consumer to pay all of the principal in a single payment or make at least one payment that is more than twice as large as any other payment.*

*The CFPB is proposing to exclude several types of consumer credit from the scope of the proposal, including: (1) Loans extended solely to finance the purchase of a car or other consumer good in which the good secures the loan; (2) home mortgages and other loans secured by real property or a dwelling if recorded or perfected; (3) credit cards; (4) student loans; (5) non-recourse pawn loans; and (6) overdraft services and lines of credit.*

## CFPB HMDA final rule webinar

The CFPB has made available on its website a [webinar](#) that provides an overview of the HMDA final rule and addresses institutional and transactional coverage, the data disclosure and submission process, as well as some key dates found in the final rule. Also available, is a HMDA transactional coverage chart that may be used when determining whether a transaction is reportable under HMDA. The CFBPB also posted to the website a PDF of the sample data collection form from Appendix B of the HMDA final rule.

## CFPB plain writing report

The CFPB's fifth annual [Plain Writing Act Compliance Report](#) is presented to fulfill the CFPB's statutory responsibilities pursuant to the Plain Writing Act of 2010. The CFPB applies plain language principles in all of its consumer print and online materials, including brochures, web content, blog posts, and other social media.

## CFPB blog

[We've updated our mortgage servicing rules to provide greater protections for mortgage borrowers and other homeowners](#)

[When your kid asks you for something, try to keep the money conversation going](#)

[Inmigrantes enfrentan desafíos financieros únicos](#)

[Working to continually improve the complaint process for all](#)

[We're working to improve fairness and transparency in the debt collection market for you](#)

[¡El mantelito del CFPB con información sobre educación financiera está ahora disponible en español!](#)

[We want to hear from the public about payday loans](#)

[How parents can help kids be smarter about money, in everyday situations](#)

[Consumer Count: Tools and resources for money decisions](#) (Five resources for everyday financial decisions)

[Consumers Count: Responding with resources](#)

## FDIC actions

### Comments sought on guidelines to appeal supervisory determinations

The FDIC is [seeking comments](#) on updates to its guidelines for institutions to appeal certain material supervisory determinations. Further, the FDIC is seeking comments on draft guidance regarding third-party lending. The two items are part of a package issued by the FDIC Board of Directors to improve the transparency and clarity of the FDIC's supervisory policies and practices, and to ensure that institutions have clear and fair avenues to pursue when there are differences of opinion regarding supervisory matters. Comments on the third-party lending guidance will be accepted until September 12, 2016

### FDIC seeks comment on its guidance: bank appeals and third party lending

The FDIC is seeking ([press release](#)) comments on updates to its guidelines for institutions to [appeal certain material supervisory determinations](#). Further, the FDIC is seeking comments on draft guidance regarding [third-party lending](#). The two items are part of a package issued by the FDIC Board of Directors to improve the transparency and clarity of the FDIC's supervisory policies and practices, and to ensure that institutions have clear and fair avenues to pursue when there are differences of opinion regarding supervisory matters.

Other documents in the package include a statement from the Board to guide FDIC staff in developing and reviewing supervisory guidance, a statement on the development and communication of supervisory recommendations to financial institutions, a statement on the FDIC Code of Conduct to reinforce the Board's commitment to the FDIC's Core Values, and updates to the FDIC's corporate governance policies. Further, the FDIC is reissuing a Financial Institution Letter originally issued in 2011 to reinforce FDIC's expectations for communications between the agency and bankers and to encourage bankers to raise concerns and provide feedback related to FDIC supervisory matters.

The FDIC stated that it believes regulatory burden does not emanate solely from statutes and regulations, but also from supervisory policies and procedures. The FDIC Board is therefore improving the FDIC's supervisory policies and practices to make them more transparent and easy-to-understand.

*Comment: Comments on the proposed third party lending guidance, which was published on July 29, now must be received on or before October 27. The 45-day extension was made in response to requests from interested parties who asked for additional time to consider the proposal. [Press release](#).*

## **FDIC reminder for banks with oil and gas exposures**

The FDIC released [FIL-49-2016](#) to remind FDIC-supervised institutions with direct or indirect oil and gas exposures to maintain sound underwriting standards, strong credit administration practices, and effective risk management strategies. When O&G related borrowers experience financial difficulties, the FDIC encourages financial institutions to work constructively with borrowers to strengthen the credits and to mitigate losses where possible. [Prudent Risk Management of Oil and Gas Exposures](#).

*Comment: Highlights include:*

- *Lending for O&G exploration and production activities in particular requires conservative underwriting, appropriate structuring, experienced and knowledgeable lending staff, and sound loan administration practices.*
- *For institutions doing business in O&G dependent areas that would be affected by volatility in commodity prices, prudent management of geographic, industry, and borrower concentrations is needed for sound risk management of such exposures. When reasonable diversification realistically cannot be achieved due to geographic or other factors, resultant concentrations may indicate the need for capital levels higher than the regulatory minimums.*
- *FDIC-supervised banks are encouraged to work with borrowers who are adversely affected by a severe or protracted downturn in commodity prices in accordance with a well-conceived workout plan and effective internal controls to manage these loans.*

## **FDIC community bank corporate governance video**

As part of its Community Banking Initiative and Technical Assistance Video Program, the FDIC is announcing the release of an updated video on community bank corporate governance. The video is designed to assist community bank directors and officers in developing a sound corporate governance framework.

Highlights:

- The video discusses the importance of a strong corporate governance program and the link between effective corporate governance and the ability of community banks to remain profitable, competitive, and resilient despite changing conditions.
- The video highlights some key elements to consider in developing a strong corporate governance program – understanding the bank's risk profile; establishing an appropriate risk appetite; obtaining and retaining qualified management; creating a dynamic strategic plan; developing policies and monitoring implementation; and staying informed.
- The video also addresses director roles and responsibilities, FDIC information sources, and concerns raised by the industry regarding corporate governance.
- The video is available for viewing on the [FDIC's website](#).
- Alternatively, FDIC-insured institutions may download the video through FDICconnect by contacting their FDICconnect coordinator.

*Comment: The video is 38 minutes long. Related topics:*

- [Pocket Guide for Directors](#)
- [Supervisory Insights, Special Corporate Governance Edition, April 2016](#)



## FDIC updates and reissues reminder on examination findings

The FDIC is updated and reissued FIL-13-2011, [Reminder on FDIC Examination Findings](#), dated March 1, 2011, to re-emphasize the importance of open communications regarding supervisory findings. An open dialogue with bank management is critical to ensuring the supervisory process is effective in promoting an institution's strong financial condition and safe-and-sound operation. The FDIC encourages bank management to provide feedback on FDIC supervisory activities and engage FDIC personnel in discussions to ensure full understanding of the FDIC's supervisory findings and recommendations. If an institution disagrees with examination findings, it has several informal and formal avenues to raise its concerns.

## OCC actions

### OCC issues Corporate and Risk Governance booklet

The OCC issued the “[Corporate and Risk Governance](#)” booklet of the Comptroller’s Handbook. This new booklet updates, consolidates, and rescinds the following Comptroller’s Handbook booklets:

- “Duties and Responsibilities of Directors,” issued in March 1990 (and examination procedures issued in January 1998).
- “Employee Benefits,” issued in March 1990.
- “Management and Board Processes,” issued in March 1990 (and examination procedures issued in March 1998).
- “Management Information Systems,” issued in May 1995.
- “Risk Management and Insurance,” issued in March 1990.
- Portions of “Internal Control Questionnaires and Verification Procedures,” issued in December 2007.

The new booklet also replaces section 310, “Corporate Governance and Oversight by the Board of Directors,” issued in January 2009, and section 330, “Management Assessment,” issued in November 2004. These sections were part of the former Office of Thrift Supervision Examination Handbook for the examination of federal savings associations (FSA).

#### *Comment: This booklet*

- *discusses the board’s and management’s authority and responsibilities for governing the bank’s structure, operations, and risks.*
- *explains enterprise risk management and the importance of viewing risk in a comprehensive, integrated manner.*
- *discusses a risk governance framework as a means to manage a bank’s risks enterprise-wide.*
- *describes risk culture and risk appetite in the context of a risk governance framework.*
- *expands the discussion on risk management systems to include the three lines of defense—front line units, independent risk management, and internal audit.*
- *provides guidance to examiners on strategic, capital, and operational planning.*
- *highlights 12 CFR 30, appendix D (heightened standards guidance for covered banks), in text boxes.*
- *contains information similar to what is included in [The Director’s Book: Role of Directors for National Banks and Federal Savings Associations](#).*

## **OCC renews charter of Minority Depository Institutions Advisory Committee Charter**

The OCC has [renewed the charter of its Minority Depository Institutions Advisory Committee](#), which advises the agency on issues and opportunities facing minority depository institutions. The committee includes officers and directors of minority depository institutions and other depository institutions committed to supporting minority depository institutions of all types, sizes, operating strategies, and geographic areas.

## **Federal Reserve Actions**

### **Fed Payment System Risk policy changes**

The Federal Reserve Board [announced](#) the adoption of changes to part II of the Federal Reserve Policy on Payment System Risk (PSR policy) to conform with enhancements to the Reserve Banks' same-day ACH service previously announced by the Board on September 23, 2015. The Board's PSR policy establishes the procedures, referred to as posting rules, for the settlement of credits and debits to institutions' Federal Reserve accounts for different payment types. The PSR policy changes relate to the posting rules for forward and return same-day ACH transactions and will align the posting rules with changes that the Reserve Banks previously adopted, effective this September, to enhance the efficiency of the ACH network and the broader U.S. payment system.

Specifically, the Board adopted a second posting time for forward same-day ACH transactions at 1:00 p.m. Eastern Time (ET) to supplement the current 5:00 p.m. ET posting time for forward same-day ACH transactions. In addition, the Board established that all returns of future-dated and same-day ACH transactions will post at the next available posting time or following the settlement of the associated forward transactions. The adopted ACH return posting times include 8:30 a.m., 1:00 p.m., 5:00 p.m., and 5:30 p.m. ET, with the specific posting time determined by when the item is received by the Reserve Banks.

The PSR policy changes become effective September 23, 2016, concurrent with the Reserve Banks' enhanced same-day ACH service.

### **Fed Reserve requests comments on civil money penalty adjustments**

The Federal Reserve Board invited comment on an [interim final rule](#) adjusting the Board's maximum civil money penalties, as required by law. In November 2015, a law was passed that requires all federal agencies to adjust their maximum civil money penalty limits annually, rather than every four years, as previously required. Additionally, the law dictates the adjustment formula for federal agencies. The Federal Register notice details the civil money penalty adjustments made by the Board. A civil money penalty is a fine imposed by a federal agency as a result of misconduct. The interim final rule is effective on August 1, 2016, and will apply to those penalties assessed after this date. The Board will accept comments until August 30, 2016.

### **Federal announces members of its Community Depository Institutions Advisory Council**

The Federal Reserve Board on Tuesday announced the members of its [Community Depository Institutions Advisory Council \(CDIAC\)](#) and the president and vice president of the council for 2017. CDIAC advises the Board on the economy, lending conditions, and other issues of interest to community depository institutions. Members are selected from representatives of commercial banks, thrift institutions, and credit unions serving on local advisory councils at the 12 Federal Reserve Banks. One member of each of the Reserve Bank councils serves on CDIAC, which meets twice a year with the Federal Reserve Board in Washington D.C.

## Announcing FedACH® SameDay Service Pricing Changes

In conjunction with the Sept. 23, 2016, Phase 1 implementation of the ACH Rules change that provides for a ubiquitous Same Day ACH, the FedACH® SameDay Service will be modified to reflect the new rules. Most significantly, a financial institution's opt in is no longer the trigger for participation in same day processing and settlement of its ACH transactions. As required by the ACH Rules, virtually all credit and non-monetary ACH items will be processed and settled on the same day they are originated if files are submitted before the related same day processing deadline and if the entries meet the technical criteria for treatment as same day items. Along with changes to the features of the FedACH SameDay Service, FedACH customers will see the following changes to the FedACH Services fee schedule effective Sept. 23, 2016. Federal Reserve Financial Services [announcement](#).

## Other federal action and news

### White paper on loss mitigation programs

The Treasury, HUD, and the FHFA released a [white paper](#) designed to serve as a guide for future loss mitigation programs that draw on the lessons learned from implementing the government's crisis-era housing recovery programs.

*Comment: The Making Home Affordable programs will close at the end of the year. With some exceptions, mortgage servicers will no longer be required to evaluate homeowners for a standard mortgage modification, like the Home Affordable Modification Program. The paper is on part of an ongoing effort to assist the mortgage servicing industry and other stakeholders to develop a framework for the future of loss mitigation. See also the CFPB's [paper](#) on loss mitigation.*

### FinCEN FAQs regarding customer due diligence

FinCEN issued [FAQs](#) to assist covered financial institutions in understanding the scope of the "[Customer Due Diligence Requirements for Financial Institutions](#)," published on May 11, 2016. These FAQs provide interpretive guidance with respect to the CDD rule. FinCEN intends to issue additional FAQs or guidance as appropriate.

### Department of Homeland Security: Reporting cyber incidents to the federal government

[Presidential Policy Directive \(PPD\)/PPD-41](#), United States Cyber Incident Coordination, outlines the roles federal agencies play during a significant cyber incident. The Department of Homeland Security (DHS) is unique among agencies in that it plays a major role in both asset response and threat response. Asset response focuses on the assets of the victim or potential targets of malicious activity, while threat response includes identifying, pursuing, and disrupting malicious cyber actors and activity.

DHS is the lead agency for asset response during a significant cyber incident. The department's National Cybersecurity and Communications Center assists asset owners in mitigating vulnerabilities, identifies other entities that may be at risk, and shares information across the public and private sectors to protect against similar incidents in the future. The Department of Justice, through the FBI and the NCIJTF, is the lead agency for threat response during a significant incident, with DHS's investigative agencies—the Secret Service and ICE/HSI - playing a crucial role in criminal investigations.

This fact sheet, [Cyber Incident Reporting: A Unified Message for Reporting to the Federal Government](#), explains when, what, and how to report a cyber incident to the federal government.

*Comment: Forward the fact sheet to your IT Manager/CTO, Compliance Officer, COO, CIO, CEO, and President*

## **NIST recommends not using SMS for two-factor authorization**

The National Institute of Standards and Technology (NIST), which is the division of the Department of Commerce responsible for developing information security standards and guidelines, including minimum standards for federal information systems, released a draft of its [digital authentication guideline](#).

*Comment: The guide is 59 pages long and highly technical, but it is significant that it considers the use of SMS messages (text messages) in two-factor identification as risky. The guide says that “SMS messages may be intercepted or intercepted” and that “implementers of new systems SHOULD carefully consider alternative authentications.” According to the draft, the use of the word SHOULD means “that among several possibilities one is recommended as particularly suitable, without mentioning or excluding others, or that a certain course of action is preferred but not necessarily required, or that (in the negative form) a certain possibility or course of action is discouraged but not prohibited.” Many businesses, including financial institutions, send one-time codes by SMS message for two-factor authorization. Some businesses are already using other methods of two-factor authentication, such as codes generated by an authenticator app (e.g. Google Authenticator) or by its own app.*

*Forward the fact sheet to your IT Manager/CTO, Compliance Officer, COO, and CIO.*

## **GAO: CFPB mortgage rules mean fewer options, higher fees for consumers**

A [recent report issued by the Government Accountability Office](#) (GAO) examined the effect of CFPB mortgage rules on banks and credit unions. In particular, the report sought to define whether or not the rules have resulted in financial institutions ceasing to offer mortgage products to customers. It also offered criticism of the CFPB for failing to define a framework by which it would evaluate the rules' impact on a go-forward basis.

As a whole, the GAO found little correlation between CFPB mortgage rules and a decrease in the number of financial institutions offering mortgage products. However, it noted that approximately 80 percent of banks reported increased personnel costs related to compliance, while 70 percent reported increased costs for third-party vendor services.

Through interviews with community bankers used to compile the report, the GAO further documented anecdotal accounts that the mortgage rules had resulted in increased fees and fewer product options for bank customers. Finally, the report analyzed the effect of new capital treatment of mortgage servicing rights under the Basel III capital rules, finding that community banks should experience little, if any, impact from the changes.

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

### **Fed: July Senior Loan Officer survey**

The July 2016 Senior Loan Officer Opinion Survey on Bank Lending Practices addressed changes in the standards and terms on, and demand for, bank loans to businesses and households over the past three months. This [summary](#) discusses the responses from 71 domestic banks and 23 U.S. branches and agencies of foreign banks. [Full report.](#) [Chart data.](#)

*Comment: In short, the July survey indicates banks tightened standards on C&I and CRE loans over the second quarter. Demand for C&I loans was little changed, while demand for CRE loans strengthened. Standards on residential real estate (RRE) loans were little changed except for those eligible for purchase by GSEs, for which a moderate net fraction of banks reported having eased standards, and for subprime residential mortgages, for which a moderate net fraction of banks reported having tightened standards. Demand for most types of RRE loans*

*strengthened. Changes in standards on consumer loans were mixed, while demand strengthened across all consumer loan types.*

## HUD/Census Bureau: New residential construction

The HUD and the U.S. Census Bureau [jointly announced](#) the new residential construction statistics for June 2016. Building permits were 13.6% below the June 2015 level. Single-family authorizations were 1% above the May figure. Privately owned housing starts were 4.8% above the revised May estimate, but 2% below June 2015 rate. Privately owned housing completions were 12.3% above the revised May estimate and 18.7% above June 2015.

## CEA report: The Performance of Community Banks over Time

The Council of Economic Advisers released an issue brief entitled [The Performance of Community Banks Over Time](#). The CEA is an agency within the Executive Office of the President that advises the President of the United States on economic policy. The CEA provides much of the objective empirical research for the White House and prepares the annual Economic Report of the President. The

*Comment: The summary finds that community banks remain strong across a range of measures, from lending growth to geographic reach, including performance since the Dodd-Frank Act passed in 2010. The report casts doubt on declining community bank numbers as evidence that new regulatory requirements are too restrictive. Additionally, the report claims that macroeconomic conditions have contributed to the lower rate of entry by new banks. The report states that there is a challenge to implement the Dodd Frank Act in a way that allows community banks to compete on a level playing field. In this respect, the report finds that:*

*The Administration has taken important policy steps to achieve this, including increasing deposit insurance coverage to better protect community banks' core source of funding and shifting the costs of deposit insurance away from small banks toward larger, riskier banks; leveling the playing field with competing nonbank lenders like mortgage brokers; making the biggest banks subject to heightened prudential standards, which both help reduce systemic risks in credit markets that can spill over onto small banks and force large institutions to bear the costs of the risks that they create; and taking steps to streamline regulation of community banks to avoid exams by multiple regulators and to allow fewer exams for the smallest banks as long as they are well capitalized and in good standing.*

## FedFocus

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

- Federal Reserve Banks begin conversion to new internal cash transactional system
- Do you know what to do with suspect counterfeit notes?
- "Au"gust Fed Facts: Medals, gold and an underground vault
- Plan, practice and protect with resources from the Fed

## FedFlash

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



#### Account Services

- Reminder - Testing and training opportunities for billing data file layout changes

#### Central Bank

- New Federal Reserve collateral margins table effective August 1, 2016

#### Check/Check 21 Services

- Announcing 2017 Check Services pricing changes
- Check Adjustments Tip: Verify receipt by the Federal Reserve Banks

#### FedACH® Services

- FedACH Feature: View unauthorized ACH return activity
- Same Day ACH and government returns
- Reminder - Keep FedACH contact information current
- Same Day ACH qualified batch reporting

#### Fedwire® Services

- FedTransaction Analyzer® tool format and data enhancements

## Selected federal rules proposed

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

#### COMMENTS

CLOSE	SUMMARY OF PROPOSED RULE
08.22.2016	<a href="#">Arbitration Agreements</a> . The CFPB proposed to establish 12 CFR part 1040, which would contain regulations governing two aspects of consumer finance dispute resolution. First, the proposed rule would prohibit covered providers of certain consumer financial products and services from using an agreement with a consumer that provides for arbitration of any future dispute between the parties to bar the consumer from filing or participating in a class action with respect to the covered consumer financial product or service. Second, the proposal would require a covered provider that is involved in an arbitration pursuant to a pre-dispute arbitration agreement to submit specified arbitral records to the CFPB. The CFPB proposes that the rulemaking would apply to certain consumer financial products and services. The CFPB is also proposing to adopt official interpretations to the proposed regulation.
09.01.2016	<a href="#">FDIC adjustment of maximum CMPs</a> . This interim final rule adjusts the maximum limit for CMPs according to inflation as mandated by Congress in the 2015 Adjustment Act. The intended effect of annually adjusting maximum civil money penalties in accordance with changes in the Consumer Price Index is to minimize any distortion in the real value of those maximums due to inflation, thereby promoting a more consistent deterrent effect in the structure of CMPs. Other technical changes to 12 CFR part 308 are intended to improve the transparency of the regulation and to assist readers in quickly identifying the applicable CMP amounts.
09.06.2016	<a href="#">Appraisals for Higher-Priced Mortgage Loans Exemption Threshold</a> . The OCC, the Federal Reserve and the CFPB published proposed rules amending the official interpretations for their regulations that implement a section of the Truth in Lending Act that establishes special appraisal requirements for HPMLs. The Agencies issued joint final rules implementing these requirements, effective January 18, 2014. The Agencies' rules exempted, among other loan types, transactions of \$25,000 or less, and required that this loan amount be adjusted annually based on any annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). If there is no annual percentage increase in the CPI-W, the OCC, the Federal Reserve and the CFPB will not adjust this exemption threshold from the prior year. The proposal would memorialize this as well as the agencies' calculation method for determining the adjustment in years following a year in which there is no annual percentage increase in the CPI-W. Comments must be received by September 6, 2016.
10.07.2016	<a href="#">Payday, Vehicle Title, and Certain High-Cost Installment Loans</a> . The CFPB proposed to establish 12 CFR part 1041, which would contain regulations creating consumer protections for certain consumer credit products. The proposal generally would cover two categories of loans. First, the proposal generally would cover loans with a term of 45 days or less. Second, the proposal generally would cover loans with a term greater than 45 days, provided that they (1) have an all-in annual percentage rate greater than 36 percent; and (2) either are repaid directly from the consumer's account or income or are secured by the consumer's vehicle. For both categories of covered loans, the proposal would identify it as an abusive and unfair practice for a lender to make a covered loan without reasonably determining that the consumer has the ability to repay the loan. The proposal generally would require that, before making a covered loan, a lender must reasonably determine that the consumer has the ability to repay the loan. The proposal also would impose certain restrictions on making covered loans when a consumer has or recently had certain outstanding loans. The proposal would provide lenders with options to make covered loans without satisfying the ability-to-repay requirements, if those loans meet certain conditions. The proposal also would identify it as an unfair and abusive practice to attempt to withdraw payment from a consumer's account for a covered loan after two consecutive payment attempts have failed, unless the lender obtains the consumer's new and specific authorization to make further withdrawals from the account. The proposal would require lenders to provide certain notices to the consumer before attempting to withdraw payment for a covered loan from the consumer's account. The proposal would also prescribe processes and criteria for registration of information systems, and requirements for furnishing loan information to and obtaining consumer reports from those registered information systems. The CFPB is proposing to adopt official interpretations to the proposed regulation. <a href="#">Comments</a> are due on or before October 7, 2016.

10.18.2016	The CFPB released a proposal to update its <a href="#">TILA-RESPA Integrated Disclosure rule</a> to memorialize informal guidance and offer clarifications. Among the proposed changes are updates to the tolerance provisions for the total of payments, clarification that recording fees and transfer taxes may be charged in connecting with housing-assistance lending, an extension of the rules coverage to all cooperative units, and clarification about how a creditor may provide separate disclosure forms to the consumer and seller. The proposal may be most notable for the issues it didn't address—technical error resolution and simultaneous issue of title policies. Comments will be accepted until October 18, 2016. <a href="#">Federal Register entry</a> .
10.11.2016	The federal banking agencies are calling for comments on a proposed, new, and streamlined Call Report for small financial institutions. The <a href="#">proposal</a> , from the FDIC, OCC, and Federal Reserve, would affect financial institutions with domestic offices only and less than \$1 billion in total assets, which is 90 percent of institutions required to file Call Reports. The proposal would reduce the Call Report from 85 to 61 pages and result in the removal of about 40% (950) of the data items. Some data items would be eliminated and reporting frequency would be reduced for others. Five schedules would be consolidated into a single new supplemental schedule for certain complex and specialized activities. <a href="#">FFIEC press release</a> . According to the <a href="#">Federal Reserve entry</a> , the deadline for comments is October 11, 2016

## Selected federal rules recently adopted

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

EFFECTIVE DATE:	SUMMARY OF FINAL RULE:
1 yr. from pub.	<a href="#">Mortgage Servicing Rules</a> . 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. <b>Servicers have a full year from the upcoming publication date (and for some changes 18 months) to implement the rules.</b>

## 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:
10.03.2016	<a href="#">Limitations on Terms of Consumer Credit Extended to Service Members and Dependents</a> . The Department of Defense issued a final rule amending the implementing regulations of the Military Lending Act of 2006. The final rule expands specific protections provided to service members and their families under the MLA and addresses a wider range of credit products than the DOD's previous regulation. <b>FDIC-supervised institutions and other creditors must comply with the rule for new covered transactions beginning October 3, 2016.</b> For credit extended in a new credit card account under an open-end consumer credit plan, compliance is required beginning October 3, 2017. <a href="#">FRL-37-2015</a>
12.01.2016	<a href="#">Overtime Rule</a> . In this Final Rule the Department updates the standard salary level and total annual compensation requirements to more effectively distinguish between overtime-eligible white collar employees and those who may be exempt, thereby making the exemption easier for employers and employees to understand and ensuring that the FLSA's intended overtime protections are fully implemented. The Department sets the standard salary level for exempt executive, administrative, professional, outside sales, and computer employees at the 40th percentile of weekly earnings of full-time salaried workers in the lowest-wage Census Region. The Department also permits employers to satisfy up to 10 percent of the standard salary requirement with nondiscretionary bonuses, incentive payments, and commissions, provided these forms of compensation are paid at least quarterly. The Department sets the total annual compensation requirement for an exempt Highly Compensated Employee (HCE) equal to the annualized weekly earnings of the 90th percentile of full-time salaried workers nationally. The Department also adds a provision to the regulations that automatically updates the standard salary level and HCE compensation requirements every three years by maintaining the earnings percentiles set in this Final Rule to prevent these thresholds from becoming outdated. Finally, the Department has not made any changes in this Final Rule to the duties tests for the EAP exemption.

12.24.2016	<a href="#">Credit Risk Retention</a> . The OCC, Board, FDIC, Commission, FHFA, and HUD (the agencies) are adopting a joint final rule (the rule, or the final rule) to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934, as added by section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act or Dodd-Frank Act). Section 15G generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as “qualified residential mortgages,” as such term is defined by the agencies by rule. The final rule was effective February 23, 2015. Compliance with the rule with respect to asset-backed securities collateralized by residential mortgages is required beginning December 24, 2015. <b>Compliance with the rule with regard to all other classes of asset-backed securities is required beginning December 24, 2016.</b>
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). <b>Also, see January 1, 2016 above and September 30, 2017 below.</b>
01.01.2018	<a href="#">Home Mortgage Disclosure (Regulation C)</a> . The CFPB amended Regulation C to implement amendments to HMDA made by section 1094 of the Dodd-Frank Act. Consistent with section 1094 of the Dodd-Frank Act, the CFPB is adding several new reporting requirements and clarifying several existing requirements. The CFPB is also modifying the institutional and transactional coverage of Regulation C. The final rule also provides extensive guidance regarding compliance with both the existing and new requirements.

## Selected federal rules – recent effective dates

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

EFFECTIVE DATE:	SUMMARY OF FINAL RULE:
08.30.2016	<a href="#">Fed CMP inflation adjustments</a> . The Board of Governors of the Federal Reserve System (the “Board”) is issuing an interim final rule amending its rules of practice and procedure to adjust the amount of each civil monetary penalty (“CMP”) provided by law within its jurisdiction to account for inflation as required by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015.
08.01.2016	<a href="#">OCC CMP inflation adjustments</a> . The OCC adopted an interim final rule amending its rules of practice and procedure for national banks and its rules of practice and procedure in adjudicatory proceedings for Federal savings associations to publish the maximum amount, adjusted for inflation, of each civil money penalty within its jurisdiction to administer. These actions are required under the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. The OCC is accepting comments on the interim final rule through August 30, 2016.
08.01.2016	<a href="#">FDIC adjustment of maximum CMPs</a> . This interim final rule adjusts the maximum limit for CMPs according to inflation as mandated by Congress in the 2015 Adjustment Act. The intended effect of annually adjusting maximum civil money penalties in accordance with changes in the Consumer Price Index is to minimize any distortion in the real value of those maximums due to inflation, thereby promoting a more consistent deterrent effect in the structure of CMPs. Other technical changes to 12 CFR part 308 are intended to improve the transparency of the regulation and to assist readers in quickly identifying the applicable CMP amounts. The FDIC is accepting comments on the interim final rule through September 1, 2016.
08.01.2016	<a href="#">FinCEN adjustment of maximum CMPs</a> . FinCEN is amending the regulations under the Bank Secrecy Act to adjust the maximum amount or range, as set by statute, of certain civil monetary penalties within its jurisdiction to account for inflation. This action is being taken to implement the requirements of the Federal Civil Penalties Inflation Adjustment Act of 1990, as further amended by the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015. FinCEN is accepting comments on the interim final rule through September 1, 2016.
07.11.2016	FinCEN issued <a href="#">final rules</a> under the Bank Secrecy Act clarifying and strengthening 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.
07.01.2016	The Secretary of Education amended the cash management regulations and other sections of the Student Assistance General Provisions regulations issued under the Higher Education Act of 1965, as amended. These final regulations are intended to ensure that students have convenient access to their title IV, HEA program funds, do not incur unreasonable and uncommon financial account fees on their title IV funds, and are not led to believe they must open a particular financial account to receive their Federal student aid. In addition, the final regulations update other provisions in the cash management regulations and otherwise amend the

Student Assistance General Provisions. The final regulations also clarify how previously passed coursework is treated for title IV eligibility purposes and streamline the requirements for converting clock hours to credit hours.

***Comment: This rule amendment is meant to stop educational institutions from prioritizing the deposits of financial aid into institutional-sponsored accounts. Marketing material must be presented in a neutral way that enables the student to choose either his or her existing account or a campus account.***

- 07.01.2016 [Registration of Securities Transfer Agents](#). The FDIC issued a final rule requiring insured State savings associations and subsidiaries of such State savings associations that act as transfer agents for qualifying securities to register with the FDIC, similar to the registration requirements applicable to insured State nonmember banks and subsidiaries of such banks. Second, the final rule revises the definition of qualifying securities to reflect statutory changes to the '34 Act made by the Jumpstart Our Business Startups Act.
- 07.01.2016 [Assessments](#). Pursuant to the requirements of the Dodd-Frank Act and the FDIC's authority under section 7 of the Federal Deposit Insurance Act (FDI Act), the FDIC is imposing a surcharge on the quarterly assessments of insured depository institutions with total consolidated assets of \$10 billion or more. The surcharge will equal an annual rate of 4.5 basis points applied to the institution's assessment base (with certain adjustments). **If the Deposit Insurance Fund (DIF or fund) reserve ratio reaches 1.15 percent before July 1, 2016, surcharges will begin July 1, 2016.** If the reserve ratio has not reached 1.15 percent by that date, surcharges will begin the first day of the calendar quarter after the reserve ratio reaches 1.15 percent. (Lower regular quarterly deposit insurance assessment (regular assessment) rates will take effect the quarter after the reserve ratio reaches 1.15 percent.) Surcharges will continue through the quarter that the reserve ratio first reaches or exceeds 1.35 percent, but not later than December 31, 2018. The FDIC expects that surcharges will commence in the second half of 2016 and that they should be sufficient to raise the DIF reserve ratio to 1.35 percent in approximately eight quarters, i.e., before the end of 2018. If the reserve ratio does not reach 1.35 percent by December 31, 2018 (provided it is at least 1.15 percent), the FDIC will impose a shortfall assessment on March 31, 2019, on insured depository institutions with total consolidated assets of \$10 billion or more. **The FDIC will provide assessment credits (credits) to insured depository institutions with total consolidated assets of less than \$10 billion for the portion of their regular assessments that contribute to growth in the reserve ratio between 1.15 percent and 1.35 percent. The FDIC will apply the credits each quarter that the reserve ratio is at least 1.38 percent to offset the regular deposit insurance assessments of institutions with credits.**
- 06.30.2016 [Joint Agencies: Loans in Areas Having Special Flood Hazards](#). A lender who doesn't qualify for the small lender exemption shall mail or deliver to the borrower no later than June 30 a notice in writing, or if the borrower agrees, electronically, informing the borrower of the option to escrow all premiums and fees for any required flood insurance and the method(s) by which the borrower may request escrow, using language similar to the model clause in appendix B. A lender with  $\geq$  \$1 billion in assets does not qualify for the exemption. This applies to any loan secured by residential improved real estate or a mobile home that is outstanding on January 1, 2016. **Also, see January 1, 2016 above. For lenders that lose the exemption, see September 30, 2017 below.**
- 03.31.2016 [Operations in Rural Areas Under the Truth in Lending Act Interim Final Rule](#). This interim final rule amends certain provisions of Regulation Z in light of title LXXXIX of the Fixing America's Surface Transportation Act, entitled the Helping Expand Lending Practices in Rural Communities Act, Public Law 114–94. The amendments to Regulation Z concern two matters: The eligibility of certain small creditors that operate in rural or underserved areas for special provisions that permit the origination of balloon-payment qualified mortgages and balloon-payment high cost mortgages and for an exemption from the requirement to establish an escrow account for higher-priced mortgage loans and the determination of whether an area is rural for the purposes of Regulation Z. DATES: This final rule is effective on March 31, 2016. Comments may be submitted on or before April 25, 2016.
- 01.01.2016 [Joint Agencies: Loans in Areas Having Special Flood Hazards](#). Homeowner Flood Insurance Affordability Act of 2014 (HFIAA) relating to the escrowing of flood insurance payments and the exemption of certain detached structures from the mandatory flood insurance purchase requirement. The final rule also implements provisions in the Biggert-Waters Flood Insurance Reform Act of 2012 (the Biggert-Waters Act) relating to the force placement of flood insurance. In accordance with HFIAA, the final rule requires regulated lending institutions to escrow flood insurance premiums and fees for loans secured by residential improved real estate or mobile homes that are made, increased, extended or renewed on or after January 1, 2016, unless the loan qualifies for a statutory exception. In addition, certain regulated lending institutions are exempt from this escrow requirement if they have total assets of less than \$1 billion. Further, the final rule requires institutions to provide borrowers of residential loans outstanding as of January 1, 2016, the option to escrow flood insurance premiums and fees. The final rule includes new and revised sample notice forms and clauses concerning the escrow requirement and the option to escrow. The final rule includes a statutory exemption from the requirement to purchase flood insurance for a structure that is a part of a residential property if that structure is detached from the primary residence and does not also serve as a residence. However, under HFIAA, lenders may nevertheless require flood insurance on the detached structures to protect the collateral securing the mortgage. **(Lenders with assets < \$1 billion, see June 30, 2016 and September 30, 2017.)**
- 01.01.2016 [CFPB: Reg. Z Annual Threshold Adjustments \(CARD ACT, HOEPA and ATR/QM\)](#): The CFPB issued this final rule amending the regulatory text and official interpretations for Regulation Z. The CFPB is required to calculate annually the dollar amounts for several provisions in Reg. Z; this final rule reviews the dollar amounts for provisions implementing amendments to TILA under the CARD Act, HOEPA, and the Dodd-Frank Act. These amounts are adjusted, where appropriate, based on the annual percentage change reflected in the Consumer Price Index in effect on June 1, 2015. The minimum interest charge disclosure thresholds will remain unchanged in 2016
- 01.01.2016 [Amendments Relating to Small Creditors and Rural or Underserved Areas Under the Truth in Lending Act \(Regulation Z\)](#). The CFPB amended certain mortgage rules issued by the CFPB in 2013. The final rule revises the CFPB's regulatory definitions of small creditor, and rural and underserved areas, for purposes of certain special provisions and exemptions from various requirements provided to certain small creditors under the CFPB's mortgage rules.



- 01.01.2016 The OCC, the Board, and the FDIC [amended their CRA regulations](#) to adjust the asset-size thresholds used to define “small bank” or “small savings association” and “intermediate small bank” or “intermediate small savings association.” As required by the CRA regulations, the adjustment to the threshold amount is based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers. The agencies also propose to make technical edits to remove obsolete references to the OTS and update cross-references to regulations implementing certain Federal consumer financial laws in their CRA regulations.
- 01.01.2016 [Federal Reserve Bank Services](#). The Board of Governors of the Federal Reserve System (Board) has approved the private sector adjustment factor (PSAF) for 2016 of \$13.1 million and the 2016 fee schedules for Federal Reserve priced services and electronic access. These actions were taken in accordance with the Monetary Control Act of 1980, which requires that, over the long run, fees for Federal Reserve priced services be established on the basis of all direct and indirect costs, including the PSAF.
- 01.01.2018 [Home Mortgage Disclosure \(Regulation C\)](#). The CFPB amended Regulation C to implement amendments to HMDA made by section 1094 of the Dodd-Frank Act. Consistent with section 1094 of the Dodd-Frank Act, the CFPB is adding several new reporting requirements and clarifying several existing requirements. The CFPB is also modifying the institutional and transactional coverage of Regulation C. The final rule also provides extensive guidance regarding compliance with both the existing and new requirements.
- 12.31.2015 [Cyber-related sanctions regulations](#). OFAC issued regulations to implement [Executive Order 13694](#) of April 1, 2015 (“Blocking the Property of Certain Persons Engaging in Significant Malicious Cyber-Enabled Activities”). OFAC intends to supplement this part 578 with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance and additional general licenses and statements of licensing policy.
- 12.24.2015 [Credit Risk Retention](#). The OCC, Board, FDIC, Commission, FHFA, and HUD (the agencies) are adopting a joint final rule (the rule, or the final rule) to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934, as added by section 941 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Act or Dodd-Frank Act). Section 15G generally requires the securitizer of asset-backed securities to retain not less than 5 percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as “qualified residential mortgages,” as such term is defined by the agencies by rule. The final rule was effective February 23, 2015. **Compliance with the rule with respect to asset-backed securities collateralized by residential mortgages is required beginning December 24, 2015.** Compliance with the rule with regard to all other classes of asset-backed securities is required beginning December 24, 2016.
- 12.24.2015 [CFPB corrections to TRID rules](#). The CFPB made technical corrections to Reg. Z and the Official Interpretations of Reg. Z. These corrections republish certain provisions of Reg. Z and the Official Interpretations that were inadvertently removed from or not incorporated into the CFRs by the TRID TILA-RESPA Final Rule. Specifically, this final rule makes the following corrections to reinsert existing regulatory text that was inadvertently deleted from Reg. Z and its commentary:
- Amends § 1026.22(a)(5) to restore subparagraphs (i) and (ii).
  - Amends the commentary to § 1026.17 at paragraph 17(c)(1)-2 to restore subparagraphs i, ii, and iii.
  - Amends commentary paragraph 17(c)(1)-4 to restore subparagraphs i.A, and i.B.
  - Amends commentary paragraph 17(c)(1)-10 to restore introductory text and subparagraphs iii, iv, and vi.
  - Amends commentary paragraph 17(c)(1)-11 to restore subparagraphs i, ii, iii, and iv.
  - Amends commentary paragraph 17(c)(1)-12 to restore subparagraphs i, ii, and iii.
  - Amends commentary paragraph 17(c)(4)-1 to restore subparagraphs i and ii.
  - Amends commentary paragraph 17(g)-1 to restore subparagraphs i and ii.
  - Amends the commentary to § 1026.18 at paragraph 18(g)-4 to restore text to subparagraph i.
- This rule also amends the commentary to appendix D to Reg. Z to add paragraph 7 that had been included in the TILA-RESPA Final Rule published in the Federal Register but that was inadvertently omitted from the commentary to appendix D in the CFR.
- 12.22.2015 The Federal Reserve [Amended Reg. D](#) (Reserve Requirements of Depository Institutions) to revise the rate of interest paid on balances maintained to satisfy reserve balance requirements (“IORR”) and the rate of interest paid on excess balances (“IOER”) maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORR is 0.50 percent and IOER is 0.50 percent, a 0.25 percentage point increase from their prior levels. The amendments are intended to enhance the role of such rates of interest in moving the Federal funds rate into the target range established by the Federal Open Market Committee.
- 10.03.2015 [CFPB: Final integrated Mortgage Disclosures under the RESPA \(Reg. X\) and the Truth In Lending Act \(Reg. Z\)](#) Notice of final rule and official interpretations. The CFPB amended Reg. X and Reg. Z to establish new disclosure requirements and forms in Regulation Z for most closed-end consumer credit transactions secured by real property. In addition to combining the existing disclosure requirements and implementing new requirements imposed by the Dodd-Frank Act, the final rule provides extensive guidance regarding compliance with those requirements. [CFPB blog on the disclosure](#).
- 10.03.2015 [CFPB: Amendments to the 2013 Integrated Mortgage Disclosures Rule under Reg. X and Reg. Z and the Loan Originator Rule under Reg. Z \(80 FR 8767\)](#) Notice of final rule and official interpretations. This rule amending the integrated mortgage rule extends the timing requirement for revised disclosures when consumers lock a rate or extend a rate lock after the Loan Estimate is provided and permits certain language related to construction loans for transactions involving new construction on the Loan Estimate. This rule also amends the 2013 Loan Originator Final Rule to provide for placement of the NMLSR ID on the integrated disclosures. Additionally, the CFPB made non-substantive corrections, including citation and cross-reference updates and wording changes for



clarification purposes, to various provisions of Regulations X and Z as amended or adopted by the 2013 TILA-RESPA Final Rule. [CFPB blog on the disclosure.](#)

- 10.01.2015 [Department of Defense: Limitations on Terms of Consumer Credit Extended to Service Members and Dependents.](#) The Department of Defense amended its regulation that implements the Military Lending Act, herein referred to as the “MLA.” Among other protections for Service members and their families, the MLA limits the amount of interest that a creditor may charge on “consumer credit” to a maximum annual percentage rate of 36 percent. The Department amends its regulation primarily for the purpose of extending the protections of the MLA to a broader range of closed-end and open-end credit products. Among other amendments, the Department modifies the provisions relating to the optional mechanism a creditor could use when assessing whether a consumer is a “covered borrower,” modifies the disclosures that a creditor must provide to a covered borrower, and implements the enforcement provisions of the MLA.
- 10.01.2015 [Joint Agencies: Loans in Areas Having Special Flood Hazards.](#) The statutory force-placed insurance provision took effect upon the enactment of the Biggert-Waters Act on July 6, 2012. The statutory detached structure exemption took effect upon enactment of the HFIAA on March 21, 2014. The regulatory changes made by this final rule to incorporate these provisions are effective on October 1, 2015. See the final flood rule on 01.01.2016, below, for the statutory and escrow-related provisions.
- 08.01.2015 [Joint Agencies: Loans in Areas Having Special Flood Hazards.](#) The OCC, the Fed, the FDIC, the FCA, and the NCUA amended their regulations regarding loans in areas having special flood hazards to implement certain provisions of the Homeowner Flood Insurance Affordability Act of 2014, which amends some of the changes to the Flood Disaster Protection Act of 1973 mandated by the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters). The Agencies plan to address the private flood insurance provisions in Biggert-Waters in a separate rulemaking.

Specifically, the final rule:

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

## Common words, phrases, and acronyms

APOR	“Average Prime Offer Rates” are derived from average interest rates, points, and other pricing terms offered by a representative sample of creditors for mortgage transactions that have low-risk pricing characteristics.
ATM	Automated Teller Machine
CARD Act	<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> . 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</a>

	<a href="#">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>
EGRPRA	<a href="#">Economic Growth and Regulatory Paperwork Reduction Act of 1996</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 (or Fed)	<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	<a href="#">Mortgage Loan Originator</a>
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.	Abbreviation for “Regulation” – A federal regulation. These are found in the CFR.
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	<a href="#">Specially Designated National</a>
TILA	<a href="#">Truth in Lending Act</a>
TIN	Tax Identification Number
TRID	<a href="#">TILA/RESPA Integrated Disclosure</a>
Treasury	<a href="#">U.S. Department of Treasury</a>

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