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Community Bankers of Iowa
1603 22nd Street, Suite 102
West Des Moines, Iowa 50266
Phone: 515.453.1495
Fax: 515.453.1498
www.cbiaonline.org

Regulatory Compliance Update

April 2014

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

Recent News

CFPB: TILA-RESPA integrated disclosure guide

The CFPB released the [Small Entity Compliance Guide](#)¹ for the TILA/RESPA Integrated Disclosure Rule. The guide is designed to help mortgage lenders complete the integrated TILA/RESPA disclosures when they become effective on August 1, 2015. The guide may be helpful in the months leading up to the effective date, as banks consider how to implement the disclosures. The guide also includes all of the model forms.

The CFPB is currently working on a companion guide with details about completing the new integrated disclosure forms.

Additionally, the CFPB's website has Loan Estimate and Closing Disclosure [forms](#)² in both English & Spanish and samples for different loan types.

Comment: Although the integrated disclosures will not become effective until August 1, 2015, it is not too early to begin getting ready. This guide will help you in that effort. Additional resources are available on the [CFPB's Integrated Disclosure Implementation page](#)³.

FDIC urges use of available cyber resources

In a press release, the FDIC urged financial institutions to actively utilize available resources to identify and help mitigate potential cyber-related risks. It is important for financial institutions of all sizes to be aware of the constantly emerging cyber threats and government-sponsored resources available to help identify these threats on a real-time basis. Government and government sponsored resources banks should consider include:

- [United States Computer Emergency Readiness Team \(US-Cert\)](#)⁴
- [Secret Service Electronic Crime Task Force \(ECTF\)](#)⁵
- [FBI InfraGard](#)⁶
- [Regional Coalitions](#)⁷
- [Information Sharing and Analysis Centers \(ISACs\)](#)⁸

Comment: The FDIC recommends that you make sure your Information Security staff are aware and subscribe to reliable and recognized resources to help quickly identify cyber risks as they emerge.

B of A requests HMDA data from community banks

Several community banks have received requests for HMDA data from Bank of America (B of A). Apparently, it is common practice for the large banks to ask for this information from one another

prior to publication of industry-wide data in October of each year, to compare their lending practices with one another in various markets. For the first time, B of A is broadening their scope to include community banks in various markets, presumably those with substantial market share. This is being driven by those responsible for fair lending analysis at B of A. B of A has assured community banks that the information gathered is kept for internal analysis purposes only.



Call Report for March 31, 2014

FDIC [FIL-15-2014](#)⁹ contained Call Report changes that take effect in March 2014 include the following:

- Questions about international remittance transfers for all institutions and, for those institutions with more than 100 transactions per calendar year, the estimated number and dollar value of international remittance transfers. This information will be collected in Schedule RC-M, Memoranda, initially in March 2014 and semiannually thereafter each June and December.
- The reporting in Schedule RC-M of trade names used to identify physical offices and addresses of public-facing Internet Web sites at which the reporting institution accepts or solicits deposits from the public.
- A question in Schedule RC-E, Deposit Liabilities, asking whether the reporting institution offers deposit account products primarily intended for consumers.
- For institutions with \$1 billion or more in total assets that offer consumer deposit account products, the total balances of these products in Schedule RC-E.

In addition, a revised version of the regulatory capital components and ratios portion of Call Report Schedule RC-R, Regulatory Capital, takes effect in March 2014 for advanced approaches institutions and in March 2015 for all other institutions.

Regulators warn of DDoS attacks on websites

The FFIEC members, which include the Fed, OCC, CFPB, FDIC, have jointly issued a [statement](#)¹⁰ to notify institutions of the risks associated with the continued distributed denial of service (DDoS) attacks on public-facing Web sites and the steps institutions are expected to take to address the risks posed by such attacks.

Highlights:

- DDoS attacks are continuing against financial institutions' public-facing Web sites.
- Financial institutions that experience DDoS attacks may face a variety of risks, including operational and reputation risks.
- DDoS attacks may be a diversionary tactic by criminals attempting to commit fraud.
- Financial institutions are expected to address DDoS readiness as part of their ongoing business continuity and disaster recovery plans and to take certain specific steps, as appropriate, to detect and mitigate such attacks.
- The attached statement includes references to guidance and publications to assist institutions in mitigating the risks from DDoS attacks.

Comment: Most of these criminals are merely trying to disrupt or delay service on your website, but others use DDoS as a cover for fraudulent activities. Forward this to your IT staff and your third party online banking provider.

FFIEC: Cyber-attacks on ATMs and card authorization systems

The FFIEC members jointly issued a [statement](#)¹¹ describing risks related to recent cyber-attacks on ATMs and card authorization systems that have resulted in large dollar frauds. These attacks are known as Unlimited Operations. Unlimited Operations are a category of ATM cash-out fraud in which criminals are able to obtain funds beyond the cash balance in a customer's account or that are beyond the ATM withdrawal limits.

Financial institutions are expected to take steps to address this threat by reviewing the adequacy of their controls over their IT networks, card issuer authorization systems, systems that manage ATM parameters, and fraud detection and response processes.

Comment: Financial institutions should ensure that their risk management processes address the risks from these types of cyber-attacks consistent with the risk management guidance contained in the FFIEC IT Examination Handbook and applicable industry standards. Share this with your IT staff and your third party online banking provider.



The Heartbleed Bug

The Heartbleed Bug is a vulnerability in the open-source cryptographic software library OpenSSL. In its April 10th [press release](#)¹², the FFIEC stated that it expects financial institutions to incorporate patches on systems and services, applications, and appliances using OpenSSL and upgrade systems as soon as possible to address the vulnerability. The FDIC has issued a [Technology Alert](#) (FIL-16-2014)¹³ stating, in part:

- OpenSSL is an open-source implementation of the Secure Sockets Layer and Transport Layer Security protocols. Financial institutions may use OpenSSL in common network services such as Web servers, email servers, virtual private networks, instant messaging, and other applications.
- A significant vulnerability has been found in OpenSSL that could allow an attacker to decrypt, spoof, or perform attacks on network communications that would otherwise be protected by encryption.
- The FDIC expects financial institutions to upgrade vulnerable systems as soon as possible, following appropriate patch management practices.
- Financial institutions should monitor the status of their third-party service providers and vendors' efforts to implement patches on software that uses OpenSSL and to take the following steps, as appropriate:
 - Ensure that third-party vendors that use OpenSSL on their systems are aware of the vulnerability and take appropriate risk mitigation steps.
 - Monitor the status of their vendors' efforts.
 - Identify and upgrade vulnerable internal systems and services.
 - Follow appropriate patch management practices¹ and test to ensure a secure configuration.

- Examination guidance and additional information on patch management, software maintenance, and security updates can be found in the following FFIEC IT Examination Booklets:

[Development and Acquisition](#)
[Information Security](#)
[Operations](#)

Comment: Share this with your Chief Executive Officer, Chief Information Officer, Chief Information Security Officer, and your third party online banking provider. This is likely the most serious virus yet. It is imperative that your bank stays on top of this. You may take the following steps to determine whether any of your other systems might be infected:

1. Go to <https://www.ssllabs.com/ssltest/> and enter in the domain name you would like to check. The report page will appear and in the summary it will state one of the following:

- “This server is vulnerable to the Heartbleed attack. Grade set to F. (Experimental)”

OR

- “This server is not vulnerable to the Heartbleed attack. (Experimental)”

2. If a system is vulnerable to the Heartbleed bug then contact that vendor for an update on when their systems will be patched. They can also provide to you any additional actions you should take to protect your organization.

IRS guidance on virtual currency

The IRS posted a notice on its website containing tax information on virtual currency, such as bit coin. The notice provides basic information on the U.S. federal tax implications of transactions in, or transactions that use, virtual currency.

In some environments, virtual currency operates like “real” currency, but it does not have legal tender status in any jurisdiction. The notice provides that virtual currency is treated as property for U.S. federal tax purposes. General tax principles that apply to property transactions apply to transactions using virtual currency. Among other things, this means that:

- Wages paid to employees using virtual currency are taxable to the employee, must be reported by an employer on a Form W-2, and are subject to federal income tax withholding and payroll taxes.
- Payments using virtual currency made to independent contractors and other service providers are taxable and self-employment tax rules generally apply. Normally, payers must issue Form 1099.
- The character of gain or loss from the sale or exchange of virtual currency depends on whether the virtual currency is a capital asset in the hands of the taxpayer.
- A payment made using virtual currency is subject to information reporting to the same extent as any other payment made in property.
- Further details, including a set of 16 questions and answers, are in [Notice 2014-21](#)¹⁴, posted today on IRS.gov.

Comment: The bottom line is that, for federal tax purposes, virtual currency is property, not currency.

CFPB blogs

[Explainer: Federal student loan interest rates to jump](#)

[Choosing a college is a big deal. We can help!](#) (Compare financial aid.)

[Explainer: Compensating consumers for Bank of America's illegal tactics for credit card add-on products](#)

[Save the date: Join us for a forum on the mortgage closing process in Washington, DC!](#)

[Live from Chicago!](#) (Launch of partnership with libraries)

[Prepaid cards: Help design a new disclosure](#)

[Delivering financial education at work makes sense](#)

[Live from Nashville!](#) (Payday field hearing)

President signs flood insurance relief bill

Homeowners received relief from high flood insurance premiums under legislation signed by the President. The legislation is cited as the "[Homeowner Flood Insurance Affordability Act of 2014](#)¹⁵."

Comment: The community banking industry strongly supported this bill. It will keep insurance affordable for those who built to code at time of construction, treat current property owners and potential buyers equally, and, generally, alleviate the unintended consequences of Biggert-Waters while Congress seeks a long-term solution.

Court weighs in on debit card interchange rates

The banking industry received some welcome good news as a panel of judges for the U.S. Court of Appeals overturned a lower court's decision on the implementation of the Dodd-Frank Act's Durbin Amendment.

In July of 2013, U.S. District Court Judge Richard Leon said the Fed interpreted the statute too broadly and set the interchange cap on debit card transactions too high. That line of thinking maintained that the Fed was prohibited from considering the cost of payment processing system maintenance and fraud in determining the interchange fees. The appeals court saw the unreasonableness of this argument and maintained that the Fed's rate "generally rests on reasonable constructions."

While banks under \$10 billion in assets are excluded from the interchange rule, the community banking industry has long been concerned that the outcome of this case would create market forces long term that would drive interchange rates down for all institutions.

Comment: This may not be the end of this as the merchants may ask the appeals court for a rehearing or file a petition with the U.S. Supreme Court for certiorari.

New TAS phishing scam

The IRS learned of a new phishing scam in which taxpayers receive emails purporting to be from the Taxpayer Advocate Service (and bearing the IRS logo). The email contains a bogus case number and says:

"Your reported 2013 income is flagged for review due to a document processing error. Your case has been forwarded to the Taxpayer Advocate Service for resolution assistance. To avoid delays processing your 2013 filing contact the Taxpayer Advocate Service for resolution assistance."

The email contains a link where the recipient can find contact information for the "advocate" assigned to their case that solicits personal information such as the recipient's legal name and contact information. There's also a link to review "your reported income" that again solicits this kind of personal information.

Comment: If you get inquiries from employees or customers about these messages, please tell them NOT to click on the link and to forward the email to the IRS's designated address for such e-mails: phishing@irs.gov. Taxpayers can find instructions for forwarding the messages on IRS.gov.

FDIC on technology outsourcing

In [FIL-13-2014](#)¹⁶, the FDIC reissued three Technology Outsourcing documents as an informational resource to community banks on how to select service providers, draft contract terms, and oversee multiple service providers when outsourcing for technology products and services. The documents are not examination procedures or official guidance but, rather, informational tools.

- [Effective Practices for Selecting a Service Provider](#)¹⁷
- [Tools to Manage Technology Providers](#)¹⁸
- [Techniques for Managing Multiple Service Providers](#)¹⁹

FTC and DOJ policy statement on sharing cybersecurity information

The FTC and the DOJ today issued a [policy statement on the sharing of cyber-security information](#)²⁰ that makes clear that properly designed cyber threat information sharing is not likely to raise antitrust concerns and can help secure the nation's networks of information and resources. The policy statement provides the agencies' analytical framework for information sharing among private entities and is designed to reduce uncertainty for those who want to share ways to prevent and combat cyberattacks. [Press Release](#)²¹.

Comment: If we are ever going to get a handle on this, it is imperative that companies are able share information about cyberattacks and cyberthreats without anti-trust concerns.



IRS notice on retirement plans treatment of same-sex couples

The IRS issued [Notice 2014-19](#), which provides guidance on how qualified retirement plans should treat the marriages of same-sex couples following the Supreme Court's decision in [United States v. Windsor](#).

The *Windsor* decision invalidated Section 3 of the 1996 Defense of Marriage Act (DOMA) that barred married same-sex couples from being treated as married under federal law.

The notice:

- gives examples of Code requirements under which the marital status of the participants is relevant to the payment of benefits,

- provides guidance on how to satisfy those requirements in light of *Windsor* and [Revenue Ruling 2013-17](#), and
- describes when retirement plans must be amended to comply with *Windsor*, Revenue Ruling 2013-17, and Notice 2014-19

Comment: *If your state does not recognize same-sex marriages, this FAQ from the [IRS's FAQs on the Windsor decision](#)²² is particularly important:*

FAQ-2. **If a plan's terms designate a particular state's laws as applying to the plan, and that state does not recognize same-sex marriage for purposes of applying state law, is it permissible for the plan to be operated in a manner that does not recognize a participant's same-sex spouse with respect to the § 401(a) qualification requirements?**

In general, no. A plan will fail to satisfy the § 401(a) qualification requirements that apply with respect to married participants if, for purposes of those requirements, the plan in operation does not recognize the same-sex spouse of a plan participant as of June 26, 2013. Thus, in accordance with Q&A-2 of Notice 2014-19, if a plan administrator does not recognize the participant's same-sex spouse for purposes of the plan provisions that are required under § 401(a) because a plan administrator interprets the terms of the plan by applying a designated state's laws (such as under a plan's choice of law provision) to identify a participant's marital status, then the plan would violate the qualification requirements of § 401(a). However, pursuant to Q&A-2 of Notice 2014-19, a retirement plan will not be treated as failing to meet the § 401(a) qualification requirements merely because the plan's operations for periods prior to September 16, 2013 recognized the same-sex spouse of a participant only if the participant was domiciled in a state that recognized same-sex marriages.

Publications, reports, studies, testimony & speeches

CFPB report on consumer complaints about debt collectors

The CFPB issued a [report](#)²³ on the complaints it received about debt collectors. The CFPB reports that the top complaints are: 1) debt collectors are contacting them about debts they do not owe (about 10,100 complaints), 2) aggressive communication tactics (about 7,600 complaints), and 3) taking or threatening illegal action (about 4,200 complaints).

Comment: *The CFPB received 30,300 complaints about the debt collection market between July and December 2013. If each of those complaints is a different individual, that's 0.00001% of the estimated 30 million Americans with consumer debt subject to collection in 2013. That's a much lower number than might have been expected. At least the number of complaints appears to be good news for the debt collection industry. Of course, it could be that many consumers are still not aware of their right to file a complaint with the CFPB.*

CFPB report on consumer complaints

The CFPB announced that consumer complaint volume nearly doubled from 91,000 complaints received in 2012 to 163,700 complaints received in 2013. The CFPB's [Consumer Response Annual Report](#)²⁴ also highlighted the many issues the CFPB is helping consumers address – from foreclosure alternatives to simply receiving better customer service.

CFPB report on payday loans

The CFPB issued a report on payday lending ([CFPB Data Point: Payday Lending](#)²⁵) finding that four out of five payday loans are rolled over or renewed within 14 days. The study also shows that the majority of all payday loans are made to borrowers who renew their loans so many times that they end up paying more in fees than the amount of money they originally borrowed.

Comment: The report additionally concluded: 1) Three out of five payday loans are made to borrowers whose fee expenses exceed the amount borrowed; 2) One out of five new payday loans end up costing the borrower more than the amount borrowed; 3) Four out of five payday borrowers either default or renew a payday loan over the course of a year; 4) Four out of five borrowers who renew end up borrowing the same amount or more; and 5) One out of five payday borrowers on monthly benefits trapped in debt.

FDIC 4th Quarter state profiles

The FDIC has updated its [state profiles](#)²⁶ for the 4th Quarter of 2013 to include employment data that was revised by the Bureau of Labor Statistics.

Fed report on mobile financial services

The use of mobile phones to access a bank account, credit card, or other financial account continued to increase in prevalence among adults in the United States last year, according to the Federal Reserve Board's latest report on the use of mobile financial services—[Consumers and Mobile Financial Services 2014](#). As of December 2013, 33 percent of all mobile phone users and 51 percent of smartphone users had used mobile banking in the past 12 months. This is an increase from 28 percent in December 2012 for mobile phone users and 48 percent for smartphone users. The use of mobile phones to make payments at the point-of-sale has experienced substantial growth over the past several years, increasing threefold between the 2011 and 2012 surveys, and again between 2012 and 2013. In 2013, 17 percent of smartphone owners, representing 9 percent of the U.S. adult population, reported having used their phone to make a purchase at a retail store in the past 12 months.

Comment: While the use of mobile banking continues to increase, the report indicates that those consumers who do not use mobile banking are becoming more skeptical of the benefit of mobile banking and the level of security associated with the technology. Well over half of mobile phone owners who do not currently use mobile banking say they have no interest in using this technology. Consumers are similarly skeptical of the benefits and security of mobile point-of-sale payments, or believe it is simply easier to use another method of payment. Almost three quarters of all mobile phone owners said that they were "unlikely" or "very unlikely" to use their mobile phones to buy things at the point-of-sale if given the option.

April FedFocus

The April 2014 edition of [FedFocus](#)²⁷ includes articles entitled: *Key themes from consultation paper feedback and end-user research*; *Mining the value of FedACH Services payment information*; and *A FEDucation isn't too taxing*.

OCC Mortgage Metrics Report, 4th Quarter 2013

The performance of first-lien mortgages serviced by large national and federal savings banks continued to improve in the fourth quarter of 2013, according to a report released today by the Office of the Comptroller of the Currency (OCC).

[The OCC Mortgage Metrics Report for the Fourth Quarter of 2013](#)²⁸ contained the following important mortgage statistics for year-end 2013 (YE13):

- 91.8%—mortgages current and performing (91.4% at the end of 3rd Quarter 2013 (3Q) and 89.4% at year-end 2012 (YE12)).
- 2.6%—mortgages 30-59 days past due (down 8.7% from YE12 and lowest level at year-end since reporting began in Jan. 2008).
- 3.5%—mortgages 60 or more days past due or held by bankrupt borrowers whose payments are 30 days or more past due (down from 3.6% end of Q3 and 4.4% at YE12) This is a 20.7 percent from YE12.
- 45.9%—mortgages in the process of foreclosure at YE13 decreased 45.9 percent from YE12 to 523,528.
- 4th Quarter of 2013 saw a 20.6% decrease in new foreclosures initiated from the 4th Quarter of 2012.
- The number of completed foreclosures decreased 42.6% compared to YE12.
- Servicers implemented 242,828 home retention actions (modifications, trial-period plans, and shorter-term payment plans) in the quarter compared with 84,031 home forfeiture actions (completed foreclosures, short sales, and deed-in-lieu-of-foreclosure actions).
- The number of home retention actions implemented by servicers decreased by 22.4 percent from the 3Q and 34.0 percent from a year earlier.
- In the fourth quarter of 2013, 91.0 percent of modifications reduced monthly principal and interest payments, and 64.6 percent of modifications reduced payments by 20 percent or more.
- Modifications reduced payments by \$344 per month on average, while modifications made under the HAMP reduced monthly payments by an average of \$422.
- Servicers have modified 3,388,010 mortgages from the beginning of 2008 through the end of the third quarter of 2013.
- At the end of the fourth quarter of 2013, 43.4 percent of these modifications were current or paid off. Another 5.9 percent were 30 to 59 days delinquent, and 10.7 percent were seriously delinquent. Another 4.3 percent were in the process of foreclosure, and 8.0 percent had completed the foreclosure process.

The mortgages in the portfolio analyzed comprise about 49 percent of all mortgages outstanding in the United States.

OCC issues Asset-Based Lending booklet

The OCC issued the “[Asset-Based Lending](#)”²⁹ booklet, which is new to the Comptroller’s Handbook. The “Asset-Based Lending” booklet:

- provides risk management guidance to examiners and bankers for asset-based lending (ABL) activities.
- expands and replaces prior ABL guidance.
- presents risk-rating examples.

Comment: Forward to the bank’s CEO.

OCC issues new handbook on garnishment of federal benefits

The OCC issued the “[Garnishment of Accounts Containing Federal Benefit Payments](#)”³⁰ booklet, which is new to the Comptroller’s Handbook. The booklet contains interagency guidance and examination procedures. The booklet:

- establishes procedures that financial institutions must follow when they receive a garnishment order against an account holder who receives certain types of federal benefit payments by direct deposit.
- requires financial institutions that receive such a garnishment order to determine the sum of such federal benefit payments deposited to the account during a two-month period and ensure that the account holder has access to an amount equal to that sum or to the current balance of the account, whichever is lower.

Fed issues March FedFlash

[April FedFlash](#)³¹ includes the following articles: Federal Reserve Banks to publish new FedReceipt® RTNs; FedACH Feature: Automate delivery of ACH return, NOC and payment information to customers; Reminder - Register to attend your local, in-person 2014 Fraud Symposium. Check the link for your District’s News.

FDIC: Community banks resilient

FDIC economists prepared a [report](#)³² that concludes that the recent uptick in the rate of community bank consolidation is attributable to factors that are likely to subside once the effects of the recent crisis are fully behind us. They also find that consolidation has had much less impact on the community banking sector than is commonly believed.

Inspector General says CFPB can improve efficiency and effectiveness

The Office of Inspector General’s (OIG) report, entitled [The CFPB Can Improve the Efficiency and Effectiveness of Its Supervisory Activities](#)³³, found the CFPB needs to:

- improve its reporting timeliness and reduce the number of examination reports that have not been issued,

- adhere to its unequivocal standards concerning the use of standard compliance rating definitions in its examination reports, and
- update its policies and procedures to reflect current practices.

Comment: The OIG report has 12 recommendations to assist the CFPB in strengthening its supervision program. You can find a summary of them on the fourth page of the report. It is not on the page numbered 4—it is before the numbered pages begin.

OCC issues Oil and Gas Production Lending booklet

The OCC issued the “Oil and Gas Production Lending” booklet, which is new to the Comptroller’s Handbook. This booklet provides guidance on oil and gas production lending, including an overview of oil and gas markets, lending structures, types of reserves, associated risks, and supervisory expectations for risk management.

Highlights include:

- guidance to bankers and examiners in identifying risks that are pertinent to oil and gas production lending.
- supervisory expectations pertaining to risk management of oil and gas production loans.
- expanded examination procedures, an internal control questionnaire, and verification procedures for examiners.

Comment: The OCC warns that community banks should consider the risks arising from this type of lending and the expectations regarding risk management.

Curry: Community banks not subject to heightened expectations

In a [speech](#)³⁴ at the ABA Risk Management Forum, Comptroller Curry assured community bankers that the heightened expectations framework would not apply to banks with less than \$50 billion in assets. He also stated that the proposed exception to apply heightened expectations to banks under \$50 billion would only be used if the OCC determines the “bank’s operations were highly complex or presented such heightened risk as to require compliance with the guidelines.”

OCC Chief Counsel on community bank regulatory relief

The OCC’s Chief Counsel Amy Friend discussed efforts to minimize the regulatory burden facing community banks and savings associations while maintaining safety and soundness of the federal banking system during her testimony before the U.S. House of Representatives’ Financial Services Committee on April 8th. [Written Testimony](#)³⁵. [Oral Testimony](#)³⁶.

Comment: Friend pointed out that each new OCC rule or guidance highlights key aspects that apply to community banks. An issuance that applies to community banks has a text box that notifies community banks whether they even need to read the issuance. She testified that the federal banking agencies are engaged in a wide-scale review to identify outdated and unnecessary regulation. Friend told the Committee that the “OCC will continue to look for opportunities to minimize burden, wherever possible.”

Federal Reserve General Counsel on community banks

Federal Reserve General Counsel Scott G. Alvarez also [testified](#)³⁷ before the House Committee on Financial Services on April 8th. He concluded his remarks, in part, with:

The Federal Reserve will continue to work with other U.S. financial regulatory agencies and the institutions we supervise to ensure that these institutions operate in a safe and sound manner and are able to provide credit even during economic downturns. We are committed to promoting a stable financial system in a manner that does not impose a disproportionate burden on smaller institutions. To help us achieve this goal, we will continue to seek the views of these organizations and the public as we further develop regulatory and supervisory programs to strengthen the ability of banking organizations to lend to households and businesses.

FDIC General Counsel testifies on community banking

FDIC Acting General Counsel Richard J. Osterman also testified before the House Committee on Financial Services on April 8th. During his statement, he made the following observations about the FDIC and community banks, which are fleshed out in more detail in his [Written Statement](#)³⁸:

- The FDIC has tailored its supervisory approach to consider the size, complexity, and risk profile of the institutions it oversees.
- The frequency of our examinations of compliance with the Community Reinvestment Act can be extended for smaller, well-managed institutions.
- In Financial Institution Letters issued to the industry to explain regulations and guidance, the FDIC includes a Statement of Applicability to institutions with less than \$1 billion in total assets.
- While maintaining safe and sound banking practices. Based on the review, the FDIC has implemented a number of enhancements to our supervisory and rulemaking processes.
- The FDIC and our fellow banking regulators have been receptive to issues identified by community banks during the rulemaking process.
- The FDIC has taken regulatory action that directly benefitted community banks.

Federal agency rulemaking:

Selected final rules since last Capitol Comments:

There were no significant final rules issues since the March issue of Capitol Comments.

Selected upcoming final federal rule compliance dates:

08.15.2015 [CFPB: Final integrated Mortgage Disclosures Under the RESPA \(Reg. X\) and the Truth In Lending Act \(Reg. Z\)](#)³⁹
Notice of final rule and official interpretations. [CFPB blog on the disclosure.](#)

Comment: Distribute this calendar to your CEO, CFO, Compliance Officer, and Operations Officer.

Selected final federal rule compliance dates from the past 12 months:

Our list of past final rule effective dates is limited to 12 months. To see the document “Selected Past Final Federal Rules,” containing future and past selected final rules, click [here](#).

- 04.01.2014 [Treatment of Certain Collateralized Debt Obligations Backed Primarily by Trust Preferred Securities with Regard to Prohibitions and Restrictions on Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds \(TruPs Amendment to Volcker Rule\)](#)⁴⁰ The OCC, Board, FDIC, CFTC and SEC are each adopting a common interim final rule that would permit banking entities to retain investments in certain pooled investment vehicles that invested their offering proceeds primarily in certain securities issued by community banking organizations of the type grandfathered under section 171 of the Dodd - Frank Wall Street Reform and Consumer Protection Act (“Dodd - Frank Act”). The interim final rule is a companion rule to the final rules adopted by the Agencies to implement section 13 of the Bank Holding Company Act of 1956 (“BHC Act”), which was added by section 619 of the Dodd-Frank Act
- 04.01.2014 [OCC, Fed, FDIC, and SEC: Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships with, Hedge Funds and Private Equity Funds \(the Volcker Rule\)](#)⁴¹ The Agencies adopted a rule that would implement section 13 of the BHC Act, which was added by section 619 of the Dodd-Frank Act.” Section 13 contains certain prohibitions and restrictions on the ability of a banking entity and nonbank financial company supervised by the Board to engage in proprietary trading and have certain interests in, or relationships with, a hedge fund or private equity fund. [Statement by Chairman Ben S. Bernanke](#), [Statement by Governor Daniel K. Tarullo](#). [Final Rule - Preamble \(7.2 MB PDF\)](#). [Fact Sheet \(PDF\)](#). [Community Bank Guide \(PDF\)](#).
- 03.31.2014 [Basel III Conforming Amendments Related to the Cross-References, Subordinated Debt, and Limits Based on Regulatory Capital](#) The OCC issued an interim final rule with request for comments (final rule) that makes technical and conforming amendments to its regulations governing national banks and federal savings associations. The final rule amends various regulations in order to make those regulations consistent with the recently adopted Basel III Capital Framework. The Basel III final rule revised the OCC's regulatory capital rules, adding a new common equity tier 1 requirement, revising the definitions of tier 1 and tier 2 capital, and integrating federal savings associations into 12 CFR part 3 and 12 CFR part 6 (Prompt Corrective Action). The final rule makes technical, clarifying, and conforming amendments to the OCC's rules, by providing cross-references to new capital rules, where necessary, and deleting obsolete references. The final rule also makes changes to subordinated debt rules to clarify the requirements subordinated debt must meet and the procedures required to issue and redeem subordinated debt. EFFECTIVE DATE: March 31, 2014. Comments must be received by March 31, 2014.
- 01.18.2014 CFPB, FRB, FDIC, FHFA, NCUA, and OCC: [Appraisals for Higher-Priced Mortgage Loans](#)⁴² [Federal Banking Regulators: Appraisals for Higher-Priced Mortgage Loans – Supplemental Final Rule](#)⁴³ Alternative provisions regarding manufactured home loans are effective July 18, 2015, as indicated in the Supplementary Information, regulation text and Official Staff Commentary. [Disclosure and Delivery Requirements for Copies of Appraisals and Other Written Valuations Under ECOA/Regulation B](#)⁴⁴
- 01.13.2014 [SEC: Registration of Municipal Advisors](#)⁴⁵ The SEC adopted new Rules 15Ba1-1 through 15Ba1-8, new Rule 15Bc4-1, and new Forms MA, MA-I, MA-W, and MA-NR under the Exchange Act. These rules and forms are designed to give effect to provisions of Title IX of the Dodd-Frank Act that, among other things, require the Commission to establish a registration regime for municipal advisors and impose certain record-keeping requirements on such advisors.
- 01.10.2014 [Homeownership Counseling Organizations Lists Interpretive Rule](#)⁴⁶ This rule describes data instructions for lenders to use in complying with the requirement under the High-Cost Mortgage and Homeownership Counseling Amendments to the Truth in Lending Act (Regulation Z) and Homeownership Counseling Amendments to RESPA Final Rule to provide a homeownership counseling list using data made available by the CFPB or HUD.
- 01.10.2014 [HUD: Qualified Mortgage Definition for HUD Insured and Guaranteed Single Family Mortgages](#)⁴⁷ Through this final rule, HUD establishes a definition of “qualified mortgage” for the single family residential loans that HUD insures, guarantees, or administers that aligns with the statutory ability-to-repay criteria of the TILA and the regulatory criteria of the definition of “qualified mortgage” promulgated by the CFPB).

- 01.10.2014 [CFPB: Amendments to the 2013 Mortgage Rules under the RESPA \(Regulation X\) and the TILA \(Regulation Z\)](#) This rule amends provisions in Regulation Z and final rules issued by the CFPB in 2013, which, among other things, required that consumers receive counseling before obtaining high-cost mortgages and that servicers provide periodic account statements and rate adjustment notices to mortgage borrowers, as well as engage in early intervention when borrowers become delinquent. The amendments clarify the specific disclosures that must be provided before counseling for high-cost mortgages can occur, and proper compliance regarding servicing requirements when a consumer is in bankruptcy or sends a cease communication request under the Fair Debt Collection Practices Act. The rule also makes technical corrections to provisions of other rules. The Bureau requests public comment on these changes.
- 01.10.2014 CFPB: [Loan Originator Compensation Requirements Under TILA/Regulation Z](#)⁴⁸ Amendments to §1026.36(h) and (i), which are a prohibition on financing credit insurance in connection with consumer credit transactions secured by a dwelling, and which were to be effective on June 1, 2013, will now be effective on January 10, 2014 after clarifications are adopted. Click [here](#)⁴⁹ to read the notice of the delay of the effective date.
- 01.10.2014 CFPB: [RESPA/Regulation X and TILA/Regulation Z Mortgage Servicing](#)⁵⁰ RESPA final rule includes servicer's obligations to correct errors asserted by mortgage loan borrowers; provide certain information requested by such borrowers; and provide protection to such borrowers in connection with force-placed insurance. The Reg. Z final rule includes initial rate adjustment notices, periodic statements for residential mortgage loans, crediting of mortgage payments; and responses to requests for payoff amounts. This final rule was further corrected, clarified, and amended: [CFPB finalizes corrections, clarifications, and amendments to mortgage rules](#)⁵¹: •Clarifies how to determine a consumer's debt-to-income (DTI) ratio; •Explains that CFPB's RESPA rule does not preempt the field of servicing regulation by states. •Establishes which mortgage loans to consider in determining small servicer status. •Clarifies the eligibility standard of the temporary QM provision.
- 01.10.2014 CFPB: [Clarifications to the 2013 Mortgage Rules under the Equal Credit Opportunity Act \(Regulation B\), Real Estate Settlement Procedures Act \(Regulation X\), and the Truth in Lending Act \(Regulation Z\)](#) Among other things, these amendments: •Clarify what servicer activities are prohibited in the first 120 days of delinquency; •Facilitate servicers' offering of short-term forbearance plans; •Clarify best practices for informing borrowers about the address for error resolution documents; •Facilitate lending in rural and underserved areas, while the CFPB is reexamining the rural and underserved definitions, by: 1) Exempting all small creditors from a new ban on high-cost mortgages featuring balloon payments so long as certain restrictions are met; and 2) making it easier for certain small creditors to continue to qualify for an exemption from a requirement to maintain escrows on certain HPMLs; •Make clarifications about financing of credit insurance premiums; •Clarify the definition of a loan originator; •Clarify the points and fees thresholds and loan originator compensation rules for manufactured housing employees; •Revise effective dates of many loan originator compensation rule provisions.
- 01.10.2014 CFPB: [Ability to Repay \(ATR\) and Qualified Mortgage \(QM\) Standards under TILA/Regulation Z](#)⁵²
- 01.10.2014 CFPB: [High-Cost Mortgage and Homeownership Counseling Amendments to TILA/Regulation Z and Homeownership Counseling Amendments to RESPA/Regulation X](#)⁵³ implements Dodd-Frank Act amendments to TILA and RESPA. Expands the types of mortgage loans subject to the protections of HOEPA, revises and expands the tests for coverage under HOEPA, and imposes additional restrictions on mortgages that are covered by HOEPA, including a pre-loan counseling requirement.
- 01.03.2014 [FinCEN and Fed: Definitions of Transmittal of Funds and Funds Transfer](#)⁵⁴ FinCEN and the Fed are issuing this Final Rule amending the regulatory definitions of "funds transfer" and "transmittal of funds" under the regulations implementing the BSA. We are amending the definitions to maintain their current scope in light of changes to the EFTA, which will avoid certain currently covered transactions being excluded from BSA requirements.
- 01.01.2014 [FDIC: Interim rule revising risk-based and leverage capital requirements](#)⁵⁵ The FDIC adopted an interim final rule that revises its risk-based and leverage capital requirements for FDIC-supervised institutions. This interim final rule is substantially identical to a joint final rule issued by the OCC and the Federal Reserve (together, with the FDIC, the agencies).
- 01.01.2014 [Fed: Regulatory Capital Rules \(Basel III\)](#)⁵⁶ The Fed approved a Basel III final rule. The final rule minimizes burden on smaller, less complex financial institutions. For more details, refer to the [Federal Reserve's Press Release](#)⁵⁷. The FDIC Board of Directors approved an [interim final rule](#)⁵⁸ that adopts with revisions the three notices of proposed rulemaking (NPRs) that the banking agencies proposed last year related to Basel III and the standardized approach. The FDIC Board also approved a joint interagency [Notice of Proposed Rulemaking](#)⁵⁹ to strengthen the supplementary leverage requirements for the largest most systemically important banking organizations. The OCC announced ([NR 2013-110](#)⁶⁰) that it approved a final rule revising regulatory capital rules applicable to national banks and federal savings associations.
- 11.04.2013 [Final rule prohibiting issuing credit card unless ability to make payments is considered \(Reg. Z\)](#)

- 10.28.2013 [CFPB: Final Consumer protection rule on international remittances \(Reg. E\)](#) This rule was followed by a clarification: [CFPB Final Rule: Clarificatory amendment and technical correction to a final rule and official interpretation of disclosures for remittance transactions \(Reg. E\)](#)
- 10.17.2013 [FHA approval of lending institutions and mortgagees: streamlined reporting requirements for small supervised lenders and mortgagees](#)⁶¹ This rule streamlines the FHA financial statement reporting requirements for lenders and mortgagees who are supervised by federal banking agencies and whose consolidated assets do not meet the thresholds set by their supervising federal banking agencies for submission of audited financial statements (currently set at \$500 million in consolidated assets).
- 09.26.2013 [CFPB: Rules of Practice for Issuance of Temporary Cease-and-Desist Orders](#) The Dodd-Frank Act requires the CFPB to prescribe rules establishing procedures for the conduct of adjudication proceedings. On June 29, 2012, the Bureau published the final Rules of Practice for Adjudication Proceedings. That final rule, however, does not apply to the issuance of a temporary cease-and-desist order (TCDO) pursuant to section 1053(c) of the Dodd-Frank Act. The CFPB issued an interim final rule governing such issuance and seeks public comments. The interim final rule took effect on September 26, 2013.
- 07.01.2013 FTC: Amends the Children's Online Privacy Protection Rule ("COPPA Rule" or "Rule"), consistent with the requirements of the Children's Online Privacy Protection Act, to clarify the scope of the Rule and strengthen its protections for children's personal information, in light of changes in online technology since the Rule went into effect in April 2000. The final amended Rule includes modifications to the definitions of operator, personal information, and Web site or online service directed to children. The amended Rule also updates the requirements set forth in the notice, parental consent, confidentiality and security, and safe harbor provisions, and adds a new provision addressing data retention and deletion. (Comment: Financial institutions are subject to COPPA if they operate a website or online services directed to children or have actual knowledge that they are collecting or maintaining personal information from a child online.)
- 06.01.2013 CFPB: [Escrow Requirements for Higher-Priced Mortgages Under TILA/Regulation Z](#) ⁶² The CFPB issued [Clarifications of the 2013 Escrows final rule](#)⁶³ (Reg. Z) on May 16, 2013.
- 06.01.2013 Amendments in the [Loan Originator Compensation final rules](#)⁶⁴ to §1026.36 (h) and (i) are effective on this June 1, 2013. Section 1026.36(h) is regarding the prohibition on mandatory arbitration clauses and waivers of certain consumer rights. Section 1026(i) is regarding the prohibition on financing single-premium credit insurance.
- 03.31.2013 FinCEN: SAR/CTR batch filers must update their systems to the [new specifications](#)⁶⁵. ([Extended from June 30, 2012 to March 31, 2013](#))⁶⁶ All institutions that batch file the current CTR, CTR-C, SAR-DI, SAR-SF, SAR-MSB, or SAR-C will have to convert their systems to file the new CTR and SAR. FinCEN will make other filing technical specifications available in the near future.
- 03.28.2013 In order to resolve litigation regarding a Reg. Z provision limiting fees a consumer must pay prior to opening a credit card account, the CFPB issued an April 2012 proposal to amend the rule to be consistent with a court ruling so that it no longer applies to fees charged prior to account opening. On March 22, the CFPB adopted a [final rule](#)⁶⁷ adopting the proposal's elimination of the cap on fees charged prior to account opening.
- 03.26.2013 The CFPB [amended Reg. E](#)⁶⁸ to conform to legislation that amended the EFTA to eliminate a requirement that owners of ATMs post a fee notice on all ATMs. The onscreen notice requirement remains.

How to submit comments to your federal regulators:

Office of the Comptroller of the Currency: Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by the Federal eRulemaking Portal or e-mail, if possible. Please use the title in the Federal Register publication of the proposal. You may submit comments by any of the following methods:

- Federal eRulemaking Portal—Regulations.gov: Go to
- <http://www.regulations.gov>. Select "Document Type" of "Proposed Rule", and in "Enter Keyword or ID Box", enter the docket number found in the Federal Register publication of the proposed rule and click "Search." On "View By Relevance" tab at bottom of screen, in the "Agency" column, locate the proposed rule for OCC, in the "Action" column, click on "Submit a Comment" or "Open Docket Folder" to submit or view public comments and to view supporting and related materials for this proposed rule.
- Click on the "Help" tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- E-mail: regs.comments@occ.treas.gov

- Mail: Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 2-3, Washington, DC 20219.
- Fax: (202) 874-5274.
- Hand Delivery/Courier: 250 E Street, SW., Mail Stop 2-3, Washington, DC 20219.

Instructions: You must include “OCC” as the agency name and the docket number in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure.

Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

Board of Governors of the Federal Reserve System: You may submit comments, identified by the docket number and the RIN number found in the Federal Register publication of the rule proposal, by any of the following methods:

- Agency Web Site: <http://www.federalreserve.gov>. Follow the instructions for submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.
- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: regs.comments@federalreserve.gov. Include the docket number and RIN number in the subject line of the message.
- Fax: (202) 452-3819 or (202) 452-3102.
- Mail: Address to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

Federal Deposit Insurance Corporation: You may submit comments, identified by RIN number, by any of the following methods:

- Agency Web Site: <http://www.FDIC.gov/regulations/laws/federal/propose.html>. Follow instructions for submitting comments on the Agency Web Site.
- E-mail: Comments@FDIC.gov. Include the RIN number on the subject line of the message.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW, Washington, DC 20429.
- Hand Delivery: Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

Instructions: All comments received must include the agency name and RIN for this rulemaking and will be posted without change to <http://www.fdic.gov/regulations/laws/federal/propose.html>, including any personal information provided.

Consumer Financial Protection Bureau: You may submit comments, identified by docket number, by any of the following methods:

- Electronic: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- Mail: Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1500 Pennsylvania Ave. NW., (Attn: 1801 L Street), Washington, DC 20220.
- Hand Delivery/Courier in Lieu of Mail: Monica Jackson, Office of the Executive Secretary, Consumer Financial Protection Bureau, 1700 G Street NW., Washington, DC 20006.

Instructions: The CFPB encourages the early submission of comments. All submissions must include the document title and docket number. Please note the number of the question to which you are responding at the top of each response (respondents need not answer each question). In general, all comments received will be posted without change to <http://www.regulations.gov>. In addition, comments will be available for public inspection and copying at 1700 G Street NW., Washington, DC 20006, on official business days between the hours of 10 a.m. and 5 p.m. Eastern Time. You can make an appointment to inspect the documents by telephoning (202) 435-7275. All comments, including attachments and other supporting materials, will become part of the public record and subject to public disclosure. Sensitive personal information such as account numbers or Social Security numbers should not be included. Comments will not be edited to remove any identifying or contact information.

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.	FEMA	Federal Emergency Management Agency
ATM	Automated Teller Machine	FFIEC	Federal Financial Institutions Examination Council
CARD Act	Credit Card Accountability Responsibility and Disclosure Act of 2009	FHFA	Federal Housing Finance Agency
CFPB	Consumer Financial Protection Bureau	FHA	Federal Housing Administration
CFR	Code of Federal Regulations . Codification of rules and regulations of federal agencies.	FinCEN	Financial Crime Enforcement Network
CRA	Community Reinvestment Act . This Act is designed to encourage loans in all segments of communities.	FR	Federal Register . U.S. government daily publication that contains proposed and final administrative regulations of federal agencies.
CRE	Commercial Real Estate	FRB (or Fed)	Federal Reserve Board
CSBS	Conference of State Bank Supervisors	FSOC	Financial Stability Oversight Council
CTR	Currency Transaction Report . Filed for each deposit, withdrawal, exchange of currency that involves a transaction in currency of more than \$10,000.	FTC	Federal Trade Commission
Dodd-Frank Act	The Dodd–Frank Wall Street Reform and Consumer Protection Act	GAO	Government Accountability Office
DOJ	Department of Justice	HARP	Home Affordable Refinance Program
FDIC	Federal Deposit Insurance Corporation	HAMP	Home Affordable Modification Program
EFTA	Electronic Fund Transfer Act	HMDA	Home Mortgage Disclosure Act
Federal bank regulatory agencies	FDIC, FRB, and OCC	HOEPA	Home Ownership and Equity Protections Act of 1994
Federal financial institution regulatory agencies	CFPB, FDIC, FRB, NCUA, and OCC	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.	Reg. G	S.A.F.E. Mortgage Licensing Act
NMLS	National Mortgage Licensing System	Reg. P	Privacy of Consumer Financial Information
OCC	Office of the Comptroller of the Currency	Reg. X	Real Estate Settlement Procedures Act
OFAC	Office of Foreign Asset Control	Reg. Z	Truth in Lending
OREO	Other Real Estate Owned	RESPA	Real Estate Settlement Procedures Act
QRM	Qualified Residential Mortgage	SAR	Suspicious Activity Report – Report financial institutions file with the U.S. government (FinCEN) regarding activity that may be criminal in nature.
Reg.	Abbreviation for “Regulation” – A federal regulation. These are found in the CFR.	SDN	Specially Designated National
Reg. B	Equal Credit Opportunity	TILA	Truth in Lending Act
Reg. C	Home Mortgage Disclosure	TIN	Tax Identification Number
Reg. DD	Truth in Savings	Treasury	U.S. Department of Treasury
Reg. E	Electronic Fund Transfers		

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