



Community Bankers of Iowa August 2015

Around the Agencies	2
Publications, reports, studies, testimony & speeches	9
Selected proposed federal rules since last Capitol Comments	12
Selected final federal rules since last Capitol Comments	12
Selected upcoming final federal compliance dates	12
Selected federal compliance dates from the past 12 months	13
How to submit comments to your federal regulators	15
Common words, phrases, and acronyms.....	16

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Regulatory Compliance Update

August 2015

Around the agencies

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

Joint federal agency issuances

Joint agencies' action against Citizens Bank

The CFPB, the FDIC, and the OCC took action against Citizens Bank for failing to credit consumers the full amounts of their deposited funds. The bank kept money from deposit discrepancies when receipts did not match actual money transferred. Specifically, Citizens Bank:

- Failed to correct consumers the full amount of their deposits
- Falsely claimed that it would verify deposits

The [CFPB's order](#)¹ requires the bank to:

- Pay about \$11 million to victims
- End all violations of federal consumer financial law in connection with deposit discrepancies
- Pay a \$7.5 million civil penalty

The [FDIC's order](#)² requires Citizens Bank of Pennsylvania to:

- Pay a civil money penalty of \$3 million
- Pay restitution of \$5.8 million to consumers and businesses who held more than 475,000 accounts
- Correct the violations of law and ensure future compliance with Section 5 of the Federal Trade Commission Act

The [OCC's order](#)³ requires Citizens Bank NA, Rhode Island, to:

- Pay a civil money penalty of \$10 million
- Reimburse customers affected by the practices
- Correct the practices and enhance its governance and oversight related activities

Comment: Review your bank's policies, processes, and practices to insure that you fully credit consumers and verify deposits.

CFPB actions

CFPB releases first monthly report on complaints

The CFPB launched the first in a new series of monthly reports to highlight key trends from submitted consumer complaints. The [monthly report](#)⁴ includes complaint data on company performance, complaint volume, state and

local information, and product trends. Each month, the report will spotlight a particular product and geographic location. The first report provides a closer look at debt collection complaints and complaints from consumers in Milwaukee, Wis.

The most complained about product or services are (in descending order): debt collection, mortgages, and credit reporting. Loan complaints had the greatest increase from 2014. Equifax, Experian, and Bank of America had the most consumer complaints between for February through April 2015. Complaints against Equifax increased 8 percent over the same period in 2014.

With regard to debt collection, consumers complain most about collections of debts not owed and communication tactics. Enhanced Recovery Company, Encore Capital Group, and Portfolio Recovery Associates were the most complained about debt collection companies.

CFPB blog

[Managing someone else's money: Virginia](#) (For Virginia residents)

[Live from Springfield, Va.: Managing someone else's money](#)

[When you make student loan payments on an income-driven plan, you might be in for a payment shock](#)

[Three things to do before closing: What we learned from studying eClosing](#)

[Adjusting to a new country's financial system takes time](#)

[Save the date, Springfield!](#)

[We participated in the National Day of Civic Hacking 2015](#)

[Live from CFPB: Forum on Know Before You Owe eClosing pilot](#)

[Newly arrived and in need of help navigating our financial system](#)

[Americans with disabilities have the right to improve their financial lives](#)

[The Know Before You Owe mortgage rule will take effect October 3, 2015](#)

[You have the right to a fair financial marketplace](#)

[Citibank to refund \\$700 million to credit card customers for unfair and deceptive practices](#)

[Debt settlement company Morgan Drexen is no longer in business: What you should know](#)

[You have the right to free, unbiased financial information](#)

[Save the date, Know Before You Owe Forum on eClosing](#) (This took place on August 5th)

[You have a right to be heard](#) (regarding submitting a consumer complaint)

[Removing an outdated bankruptcy from a credit report: Jorge's story](#)

CFPB cautions lenders against military allotment practices

The CFPB sent letters to several companies that sell retail goods to military servicemembers, advising them to review their websites and other advertising for potentially misleading marketing and to review other practices related to payment by military allotment. Active-duty servicemembers are not permitted to use allotments to pay for personal property such as vehicles, appliances, and consumer electronics. The CFPB is concerned that companies that are still advertising repayment by way of military allotment may potentially be violating federal

consumer financial protection laws.

The military discretionary allotment system allows servicemembers to automatically direct a portion of their paycheck to financial institutions or people of their choosing. However, military personnel using the allotment system instead of other automatic payment options like ACH can end up losing out on certain legal protections. Updated regulations, which took effect in January, prohibit new allotments to purchase, lease or rent personal property such as vehicles, appliances and consumer electronics. The regulations do allow allotments made for the purpose of savings, insurance premiums, mortgage or rent payments, support for dependents, or investments.

Comment: According to the CFPB, giving servicemembers misleading information about payment options and allowing them to pay by allotment when prohibited could violate UDAAP.

Tip: Make sure your marketers and lenders know that they are not permitted to use allotments as a payment option.

CFPB penalizes Discover for student loan servicing

The CFPB took action against Discover Bank and its affiliates for illegal private student loan servicing practices ([Consent Order](#)⁵). The CFPB found that Discover overstated the minimum amounts due on billing statements and denied consumers information they needed to obtain federal income tax benefits. The company also engaged in illegal debt collection tactics, including calling consumers early in the morning and late at night. The CFPB's order requires Discover to refund \$16 million to consumers, pay a \$2.5 million penalty, and improve its billing, student loan interest reporting, and collection practices.

The CFPB concluded that the company and its affiliates violated the Dodd-Frank Act's prohibitions against unfair and deceptive acts and practices, and also the Fair Debt Collection Practices Act. Specifically, the CFPB found that the company:

- Overstated minimum amount due in billing statements (i.e., it included interest still in deferment)
- Misrepresented on its website the amount of student loan interest paid (i.e., didn't provide customary tax information form, unless certain paperwork was submitted, so their interest paid was reflected as \$0.00, and didn't tell borrower they had to submit the paperwork to get correct information)
- Illegally called consumers early in the morning (before 8AM) and late at night (after 9PM), often excessively (it also failed to correct the problem for four months once identified)
- Engaged in illegal debt collection tactics (e.g. failure to comply with federally required consumer notices regarding debt acquired)

Comment: If your bank is a loan servicer, it is responsible for providing basic services to borrowers, including accurate periodic account statements, supplying year-end tax information, and contacting borrowers regarding overdue amounts.

Tip: Audit your loan servicing to ensure that you aren't violating federal law. Remember, if any part of a loan is for school, it is probably considered a private education loan and is subject to the regulations. If your borrower tells you the loan is partly for education, you must not change or fudge the purpose of the loan to avoid the regulations. The definition of private education loans is found at [12 CFR 1026.46\(b\)\(5\)](#).⁶

CFPB Spanish language resources

The CFPB has some Spanish language resources on its website:

- Much of the CFPB's website is also in Spanish: <http://www.consumerfinance.gov/es/>

- A Spanish language version of the Your Home Loan Toolkit is available: [Su conjunto de herramientas para préstamos hipotecarios](#)⁷ [Your Home Loan Toolkit](#) is designed to replace the Settlement Cost Booklet when the TILA-RESPA Integrated Disclosures go into effect.
 - Download the toolkit, designed for web posting and interactivity ([English](#) | [Spanish](#))
 - Download the print-ready PDF ([Large](#) | [Small](#) | [Spanish](#))
 - Pre-order printed copies ([Large](#) | [Small](#)) from the U.S. Government Printing Office.
 - Download [instructions](#) and required disclaimer ([English](#) | [Spanish](#)) if you'd like to add your organization's logo

Comment: If you do business in Spanish, these resources may prove helpful to you and your staff.

CFPB issues bulletin on private mortgage insurance

The CFPB issued a [bulletin](#)⁸ providing guidance to mortgage servicers regarding the cancellation and termination of private mortgage insurance. The bulletin explains certain requirements of the Homeowners Protection Act and is intended to help servicers comply with the law.

Comment: The bulletin purports to summarize existing requirements and not create new responsibilities or requirements.

Tip: If you have loans with PMI, review them to make sure your borrowers aren't paying for unnecessary insurance and that you are in compliance with the PMI cancellation and termination provisions of the [Homeowners Protection Act of 1998](#)⁹. Remember, that in addition to providing borrowers with a right to request PMI cancellation, HPA provides that PMI must be terminated automatically on the termination date if the borrower is current on the loan. See the CFPB's bulletin and the HPA for details. The Federal Reserve's [examination procedures](#)¹⁰ contain more detail than the CFPB's bulletin and includes a worksheet for performing transactional testing. These examination procedures or those of your prudential regulator are a good template for drafting PMI policies and procedures.

CFPB updates TRID rule implementation resources

Because of the new TRID rule effective date (October 3, 2015), the CFPB updated its [TRIC rule implementation resources](#).¹¹

Comment: Specifically, CFPB updated the [small entity compliance guide](#),¹² the [guide to the loan estimate and closing disclosure forms](#),¹³ and the [timeline](#)¹⁴ example.

CFPB publishes index of Outlook Live TRID rule webinars

CFPB staff has been participating in a series of webinars sponsored by the Federal Reserve to address implementation of the new rule. [The Question index – Outlook Live webinars on TILA-RESPA Integrated Disclosure](#)¹⁵ contains a list of each question answered in the webinars and the date of the webinar in which the question was covered. By clicking on the date while holding down your control key, you will be linked to the webinar table of contents, where you can then choose the segment of interest. Please note that registration is required to view the recordings at the Outlook Live site.

FDIC actions

FDIC FIL on June 30th Call Report

The FDIC issued [FIL-30-2015](#)¹⁶ pertaining to the Call Report for the June 30, 2015, report date. Please plan to complete the preparation, editing, and review of your institution's Call Report data and the submission of these data to the agencies' Central Data Repository (CDR) as early as possible. Starting your preparation early will help you identify and resolve any edit exceptions before the submission deadline. If you later find that certain information needs to be revised, please make the appropriate changes to your Call Report data and promptly submit the revised data file to the CDR.

FDIC list of banks examined for CRA compliance

FDIC released its [monthly list](#)¹⁷ of banks examined for CRA compliance.

Comment: We don't typically include this in Capitol Comments, but we do want everyone to be aware of it. If you want to see the list monthly, bookmark it.

FDIC enforcement decisions and orders

Click [here](#)¹⁸ to see the FDIC's list of enforcement decisions and orders.

Comment: Reviewing this list periodically can help you when developing policies and procedures. The terms of the decisions and orders help you know what the FDIC is looking for in terms of compliance and the penalties assessed for noncompliance.

FDIC professional liability lawsuits

As receiver for a failed financial institution, the FDIC may sue professionals who caused losses to the institution in order to maximize recoveries. These individuals can include officers and directors, attorneys, accountants, appraisers, brokers, or others. Professional liability claims also include direct claims against insurance carriers such as fidelity bond carriers and title insurance companies. [Professional Liability Lawsuits](#).¹⁹

Comment: Since 2009, 1207 Director and Officer defendants have been authorized by the FDIC. Professionals may be sued for, among other things, either gross or simple negligence. The Supreme Court has ruled that the FDIC may pursue simple negligence claims against directors and officers if state law permits (Atherton v. FDIC). Federal law preempts state law that insulates directors and officers from gross negligence or worse conduct. Bank directors are allowed to exercise business judgment without incurring legal liability. Not all bank failures result in Director and Officer lawsuits. The FDIC brought claims against directors and officers in 24 percent of the bank failures between 1985 and 1992.

OCC actions

OCC assesses Citibank \$35 million penalty

The OCC assessed a \$35 million penalty against Citibank, and its affiliate, Department Stores National Bank, Sioux Falls, South Dakota (collectively, the bank), and ordered the bank to identify and make restitution to harmed customers.

The OCC found that the bank's billing and marketing practices violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1), which prohibits unfair and deceptive acts or practices. The \$35 million civil money penalty reflects a number of factors, including the scope and duration of the violations and financial harm to customers from the unfair and deceptive practices. The penalty will be paid to the U.S. Treasury.

Customers eligible for restitution include those who were unfairly billed for identity theft protection products marketed and sold by the bank and its vendors; and subjected to the bank's deceptive marketing practices with regard to a debt cancellation product. [Consent Order for a Civil Money Penalty](#).²⁰ [News Release](#).²¹

Comment: The OCC also required the bank to improve its governance of third party vendors associated with add-on consumer products, develop a risk management program for add-on products, develop a consumer compliance internal audit program for add-on products, and conduct an add-on product review.

Tip: A community bank would be wise to heed the OCC's requirements and develop governance, risk management, internal audit and review processes related to bank and vendor add-on products.

OCC enforcement actions and terminations for July 2015

The OCC [released](#)²² new enforcement actions taken against national banks, federal savings associations, and individuals currently and formerly affiliated with national banks and federal savings associations.

Comment: Capitol Comments doesn't often publish the OCC's monthly list of enforcement actions, but it is good to review their terms occasionally. If you are interested in reviewing this periodically, bookmark this page.

OCC's CRA performance evaluations for July 2015

OCC released a [list](#)²³ of banks examined in July for CRA compliance and the results of the examinations.

Comment: Capitol Comments doesn't usually publish this list, so bookmark it if you want to check it more often.

OCC issues guidance on risk of offering tax refund related products

The OCC issued [guidance](#)²⁴ outlining safety and soundness measures that national banks and federal savings associations should follow if they offer tax refund-related products.

Federal Reserve actions

July 2015 Senior Loan Officer Opinion Survey on Bank Lending Practices

The [July 2015 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.

Regarding loans to businesses, the July survey results indicated that, on balance, banks reported little change in their standards on commercial and industrial (C&I) loans in the second quarter of 2015. In addition, banks reported having eased some loan terms, such as spreads and covenants, especially for larger firms on net. Meanwhile, survey respondents also reported that standards on commercial real estate (CRE) loans remained unchanged on balance. On the demand side, modest to moderate net fractions of banks indicated having experienced stronger demand for C&I and CRE loans during the second quarter.

Other federal action and news

Department of Defense issues expanded Military Lending Act rule

After nearly three years of study, the Department of Defense today issued the final Military Lending Act (MLA) rule. This rule applies the protections of the MLA to all forms of payday loans, vehicle title loans, refund anticipation loans, deposit advance loans, installment loans, unsecured open-end lines of credit, and credit cards. The implementing regulation provides several significant protections extended to active duty service members and their families, including:

- A 36 percent Annual Percentage Rate limit. This cap, which is referred to as the Military Annual Percentage Rate or MAPR, covers all interest and fees associated with the loan. This limit now includes charges for most ancillary “add-on” products such as credit default insurance and debt suspension plans.
- The MLA prohibits creditors from requiring service members to: submit to mandatory arbitration and onerous legal notice requirements; waive their rights under the service members’ Civil Relief Act; provide a payroll allotment as a condition of obtaining credit (other than from relief societies); be able to refinance a payday loan; or be able to secure credit using a post-dated check, access to a bank account (other than at an interest rate of less than 36 percent MAPR), or a car title (other than with a bank, savings association or credit union).
- The changes to definitions of credit in the final rule bring any closed or open-end loan within the scope of the regulation, except for loans secured by real estate or a purchase-money loan, including a loan to finance the purchase of a vehicle

Comment: This final rule extends the 36% interest cap over a number of additional credit products. The rule is effective on October 1, 2015 for transactions closed after October 3, 2016 or October 3, 2017 for credit cards. This shouldn't affect many community banks.

FFIEC will resume including principal city with HMDA data

The United States Office of Management and Budget delineates metropolitan and micropolitan statistical areas according to published standards that are applied to Census Bureau data. Resuming with calendar year 2014 HMDA data, [the Census Bureau data will include principal city](#). The CY 2014 Aggregate and Disclosure Reports will be updated to reflect principal city information. Please refer to the document, [Table Revisions](#), for a detailed discussion of the related table, Table 10. Refer to the document, [Table Layout](#), for the layout of Table 10.

FinCEN issues GTO for common carriers of currency crossing border

FinCEN [announced](#)²⁵ that it renewed a Geographic Targeting Order currently in place for armored cars and other common carriers of currency at two border crossings in Southern California and issued a new, similar, GTO applicable to carriers crossing the border at eight major ports of entry in [Texas](#).²⁶ The GTOs’ reporting and recordkeeping requirements are designed to enhance the transparency of cross-border money movements and prevent the attempted exploitation of reporting exemptions by some carriers suspected of moving dirty cash for Mexican drug trafficking organizations.

Publications, articles, reports, studies, testimony & speeches

HUD and Census Bureau announce new residential construction activity in June

HUD and the U.S. Census Bureau jointly published [new residential construction statistics for June 2015](#).²⁷

Target agrees to reimburse financial institutions up to \$67 million

According to the Wall Street Journal: “Target Corp. agreed to reimburse thousands of financial institutions as much as \$67 million for costs incurred from a [massive 2013 data breach](#) that damaged the retailer’s reputation with shoppers and cut into sales.” See: [Target to Settle Claims Over Data Breach](#) (subscription required)

FAFTA report on money laundering risks of gold

Gold has a stable value, is anonymous and easily transformable. The FAFTA report [Money Laundering / Terrorist Financing Risks and Vulnerabilities Associated with Gold](#)²⁸ identifies the features of gold and the gold trade that have made it an alternative means for criminals to transfer value and generate proceeds. Case studies and red flag indicators aim to raise awareness of the key vulnerabilities of the gold and the gold market.

OCC Community Development Investments—Hardest Hit Funds

States are implementing their individual Hardest Hit Fund programs in innovative ways. By working closely with state agencies, banks can identify solutions that may help borrowers remain in their homes. [The OCC’s Community Developments Investments \(July 2015\)](#)²⁹ report describes the ways state housing agencies are using funds from the U.S. Department of the Treasury to help homeowners in areas still struggling to recover from the housing crisis.

American Banker Bank Think article on CFPB negligence standard

In an article entitled [CFPB Negligence Standard Casts a Broad Net](#)³⁰, Ari Karen, an attorney at Offit Kurman, discusses a UDAAP [enforcement against JPMorgan Chase](#)³¹ and opines that the “standard for UDAAP is more akin to mere negligence” than to intentional or willful acts. According to Mr. Karen, this UDAAP enforcement shows that UDAAP “claims can be built on activities that are more likely the result of systemic failures rather than any intention to mislead customers.”

Comment: This enforcement action by the CFPB demonstrates that to avoid UDAAP your bank must have systems in place to protect customers from mistakes.

OCC’s Curry speaks on regulatory reform

In a speech at the August 4th EGRPRA meeting in Kansas City, Comptroller Curry discussed the regulatory burden faced by banks and pledged to act to reduce regulations where possible. The purpose of the EGRPRA meetings is

to let the federal regulators which regulations need to be amended to give bank's relief. Commissioner Curry also encouraged banks to submit suggestions for regulatory relief. Specifically, he said:

- “We think a greater number of healthy, well-managed community institutions ought to qualify for the 18-month examination cycle.”
- “We don’t believe it is necessary to include smaller institutions under the Volcker Rule in order to realize Congressional intent, and we recommend exempting the more than 6,000 banks and thrifts with less than \$10 billion in assets.”
- “We’ve developed a proposal to provide federal savings associations with greater flexibility to expand their business model without changing their governance structure.”

Comment: Curry also encouraged banks and thrifts to take a look at the paper titled, [“An Opportunity for Community Banks: Working Together Collaboratively.”](#)³²

CFPB report on its eClosing project

The CFPB published a [report](#)³³ on its “Know Before You Owe” eClosing project that found borrowers can benefit from electronic closings when navigating the mortgage closing process. Specifically, according to the report, the results of the pilot indicate that those who closed their mortgage using an electronic platform are generally better off on measures of understanding, efficiency, and feeling empowered than borrowers who used just paper forms.

Comment: The report found that eClosings were associated with better consumer understanding, more efficient process, and greater feeling of consumer empowerment.

Hoenig expands remarks on bifurcated regulatory system

In [prepared remarks](#),³⁴ FDIC Vice Chairman Tom Hoenig expanded on his proposal to create a bifurcated regulatory system based on the complexity of banks’ business activities. “Under the plan,” Hoenig said, “a bank would be eligible for regulatory relief if:

- it holds no trading assets or liabilities;
- it holds no derivative positions other than interest rate and foreign exchange derivatives;
- the total notional value of all its derivatives exposures - including cleared and non-cleared derivatives - is less than \$3 billion; and
- it maintains a ratio of Generally Accepted Accounting Principles equity-to-assets of at least 10%.”

Hoenig emphasized the importance of business model, rather than asset size, being the guiding principle in consideration of regulatory relief. He went on to suggest that banks meeting this criteria should be exempt from Basel III capital requirements, treated with greater discretion with regard to fair lending requirements, subject to an 18-month examination cycle, earn automatic QM status for mortgage loans held in portfolio, and be able to exhibit compliance with the Volcker rule by having clear policies and procedures that place appropriate controls on activities.

FedFocus for August

[FedFocus](#)³⁵ 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:

- Evolving with the times: Commerce Bank and FedACH Risk® Origination Monitoring

- Your opinion is important to us! Take the Fed’s publications survey by August 21, 2015
- Learn how our services can help improve your business continuity plans

Comment: According to the FedFocus article, the Risk Origination Monitoring Service allows a subscribing originating depository financial institution to:

- *Set and control debit and/or credit caps for either its routing number as a whole or for all-inclusive or select lists of its company IDs*
- *Monitor accumulated totals over a single processing day or across multiple exposure days*
- *Check values against caps at the consolidated FedACH® Services operator point, which is the final point immediately before the transactions are entered into the ACH network*
- *Receive email notifications when batches are pended for a release or reject decision if caps are exceeded*
- *Pre-set end-of-day defaults to release or reject pended batches in the event unusual circumstances prevent staff from being able to make the release or reject decision*

FedFlash

[FedFlash](#)³⁶ is your 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:

- Account Services plans changes
- The Federal Reserve Banks Billing Product Code Dictionary to be decommissioned

Check/Check 21 Services:

- Effective September 1, 2015, change in process for handling items drawn on retired routing numbers
- New posting rules operational and product changes
- Check Adjustments Tip: Check Adjustments Automated Status Report at your fingertips
- Federal Reserve Banks to publish new FedReceipts RTNs

FedACH Services:

- FedACH Feature: Complimentary one-on-one onboarding support available for FedACH value-added services
- Reminder—Effective September 1, 2015, FedACH Services to change process for pended files
- September 2015 ACH rules changes
- New posting rules operational and product changes

Fedline Access Solutions:

- Reminder – Submit Subscriber requests via the EUAC Center

General:

- Your opinion is important to us! Take the Fed’s publications survey by August 21, 2015

Treasury Services:

- Treasury Retail Securities Services mailing addresses and phone numbers were consolidated July 27, 2015

Selected federal rules proposed

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

COMMENTS
CLOSE

SUMMARY OF PROPOSED RULE

- 09.11.2015 The FDIC [proposed](#)³⁷ to amend 12 CFR part 327 to refine the deposit insurance assessment system for small insured depository institutions that have been federally insured for at least 5 years (established small banks) by: revising the financial ratios method so that it would be based on a statistical model estimating the probability of failure over three years; updating the financial measures used in the financial ratios method consistent with the statistical model; and eliminating risk categories for established small banks and using the financial ratios method to determine assessment rates for all such banks (subject to minimum or maximum initial assessment rates based upon a bank's CAMELS composite rating). The FDIC does not propose changing the range of assessment rates that will apply once the Deposit Insurance Fund (DIF or fund) reserve ratio reaches 1.15 percent; thus, under the proposal, as under current regulations, the range of initial deposit insurance assessment rates will fall once the reserve ratio reaches 1.15 percent. The FDIC proposes that a final rule would go into effect the quarter after a final rule is adopted; by their terms, however, the proposed amendments would not become operative until the quarter after the DIF reserve ratio reaches 1.15 percent.
- 09.04.2015 The Department of Labor has announced a [proposed rule](#)³⁸ that would extend overtime protections to white collar workers. The exception to overtime eligibility currently applies to executive, administrative, and professional employees who earn \$23,660 or more a year. This proposal would raise that amount to \$47,892 per year. When this proposal is finalized, employers will be required to pay overtime to employees making less than \$47,892 per year when they work in excess of 40 hours in a week.

Selected federal rules 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:

Good News! We didn't identify any federal rules adopted since our previous edition that warranted reporting.

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:

- 10.01.2015 [Limitations on Terms of Consumer Credit Extended to Service Members and Dependents](#).³⁹ 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.

- 10.03.2015  [CFPB: Final integrated Mortgage Disclosures under the RESPA \(Reg. X\) and the Truth In Lending Act \(Reg. Z\)](#)⁴⁰ 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](#)⁴¹ (80 FR 8767)⁴² 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.](#)

Selected federal rules – recent effective dates

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

EFFECTIVE

DATE:

SUMMARY OF FINAL RULE:

- 08.01.2015 [Loans in Areas Having Special Flood Hazards](#).⁴³ 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.

- 05.01.2015 The Board adopted [final amendments](#)⁴⁴ to the Small Bank Holding Company Policy Statement (Regulation Y, Appendix C) (Policy Statement) that: (i) raise from \$500 million to \$1 billion the asset threshold to qualify for the Policy Statement; and (ii) expand the scope of companies eligible under the Policy Statement to include savings and loan holding companies. The Board is also adopting final conforming revisions to Regulation Y and Regulation LL, the Board's regulations governing the operations and activities of bank holding companies and savings and loan holding companies, respectively, and Regulation Q, the Board's regulatory capital rules. Specifically, the Proposed Rule would allow bank holding companies and savings and loan holding companies with less than \$1 billion in total consolidated assets to qualify under the Policy Statement, provided the holding companies also comply with three qualitative requirements (Qualitative Requirements). Previously, only bank holding companies with less than \$500 million in total consolidated assets that complied with the Qualitative Requirements could qualify under the Policy Statement. The Board issued the Policy Statement in 1980 to facilitate the transfer of ownership of small community-based banks in a manner consistent with bank safety and soundness. The Board adopted the Policy Statement to permit the formation and

expansion of small bank holding companies with debt levels that are higher than typically permitted for larger bank holding companies.

- 02.23.2015 [Credit risk retention](#).⁴⁵ The OCC, Board, FDIC, Commission, FHFA, and HUD adopted a joint final rule to implement the credit risk retention requirements of Section 15 of the Securities and Exchange Act of 1934, as added by section 941 of the 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.
- 01.01.2015 [Reg. Z annual threshold adjustments \(CARD ACT, HOEPA and ATR/QM\)](#). The CFPB issued a final rule⁴⁶ amending the regulatory text and official interpretations for Regulation Z. The CFPB must calculate annually the dollar amounts for several provisions in Regulation Z. This final rule reviews the dollar amounts for provisions implementing amendments to TILA under the CARD Act, HOEPA, and the Dodd-Frank Act.
- 01.01.2015 [Reg. Z adjustment to asset-size exemption threshold](#).⁴⁷ The CFPB amended the official commentary that interprets the requirements of Reg. Z to reflect a change in the asset size threshold for certain creditors to qualify for an exemption to the requirement to establish an escrow account for a HPML based on the annual percentage change in the average of the CPI-W for the 12-month period ending in November. The exemption threshold is adjusted to increase to \$2.060 billion from \$2.028 billion. Therefore, creditors with assets of \$2.060 billion or less as of December 31, 2014, are exempt, if other requirements of Regulation Z also are met, from establishing escrow accounts for higher-priced mortgage loans in 2015. The adjustment to the escrows exemption asset-size threshold will also increase a similar threshold for small-creditor portfolio and balloon-payment qualified mortgages. Balloon-payment qualified mortgages that satisfy all applicable criteria, including being made by creditors that do not exceed the asset-size threshold, are also excepted from the prohibition on balloon payments for high-cost mortgages.
- 01.01.2015 [HMDA adjustment to asset-size exemption threshold](#).⁴⁸ The CFPB issued a final rule amending the official commentary that interprets the requirements of HMDA to reflect a change in the asset-size exemption threshold for banks, savings associations, and credit unions based on the annual percentage change in the average of the CPI-W. The exemption threshold is adjusted to increase to \$44 million from \$43 million. Therefore, banks, savings associations, and credit unions with assets of \$44 million or less as of December 31, 2014, are exempt from collecting data in 2015.
- 01.01.2015 [Basel III](#).⁴⁹ The FDIC has issued an interim final rule that revises the existing capital rules to incorporate certain revisions to the Basel capital framework, including Basel III and other elements. The interim final rule strengthens the definition of regulatory capital, increases risk-based capital requirements, and makes selected changes to the calculation of risk-weighted assets. Basel III Framework is effective 1/1/2014 for large, internationally active insured depository institutions and is effective 1/1/2015 for all other insured depository institutions, subject to a transition period. Standardized Approach is effective 1/1/2015 for all insured depository institutions. Applicability: The rule applies to all FDIC-supervised banks and savings associations. Publication Reference: FIL-31-2013 dated 7/9/2013. Also See: New Capital Rule-Community Bank Guide attached to FIL-13-2013 Informational video and expanded summary on the interim final rule at: www.fdic.gov/regulations/capital. FDIC Press Release PR-60-2013 dated 7/9/2013
- 11.30.2014 Servicemembers Civil Relief Act Notice Disclosure, [Form HUD-92070](#)⁵⁰, expires. This form is required to notify homeowners in default of their mortgage of the foreclosure rights of servicemembers and their dependents under SCRA. Presumably, a new form will be available in time.
- 11.17.2014 The CFPB amended subpart B of Regulation E, which implements the Electronic Fund Transfer Act, and the official interpretation to the regulation (Remittance Rule). This [final rule](#)⁵¹ extends a temporary provision that permits insured institutions to estimate certain pricing disclosures pursuant to section 1073 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Absent further action by the Bureau, that exception would have expired on July 21, 2015. Based on a determination that the termination of the exception would negatively affect the ability of insured institutions to send remittance transfers, the Bureau is extending the temporary exception by five years from July 21, 2015, to July 21, 2020. The Bureau is also making several clarifications and technical corrections to the regulation and commentary.

- 11.10.2014 CFPB [finalized a rule](#)⁵² to allow financial institutions to use an alternative delivery method to provide annual privacy notices through posting the annual notices on their websites if they meet certain conditions. Specifically, financial institutions may use the alternative delivery method for annual privacy notices if:
- no opt-out rights are triggered by the financial institution’s information sharing practices under GLBA or FCRA section 603, and opt-out notices required by FCRA section 624 have previously been provided, if applicable, or the annual privacy notice is not the only notice provided to satisfy those requirements;
 - the information included in the privacy notice has not changed since the customer received the previous notice; and
 - the financial institution uses the model form provided in Regulation P as its annual privacy notice
- 11.03.2014 The CFPB [amended](#)⁵³ certain mortgage rules issued in 2013. The final rule provides an alternative small servicer definition for nonprofit entities that meet certain requirements and amends the existing exemption from the ability-to-repay rule for nonprofit entities that meet certain requirements. The final rule also provides a limited, post-consummation cure mechanism for loans that exceed the points and fees limit for qualified mortgages, but that meet the other requirements for being a qualified mortgage at consummation.

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.	CRA	Community Reinvestment Act . This Act is designed to encourage loans in all segments of communities.
ATM	Automated Teller Machine	CRE	Commercial Real Estate
CARD Act	Credit Card Accountability Responsibility and Disclosure Act of 2009	CSBS	Conference of State Bank Supervisors
CFPB	Consumer Financial Protection Bureau	CTR	Currency Transaction Report . Filed for each deposit, withdrawal, exchange of currency that involves a transaction in currency of more than \$10,000.
CFR	Code of Federal Regulations . Codification of rules and regulations of federal agencies.	Dodd-Frank Act	The Dodd-Frank Wall Street Reform and Consumer Protection Act
		DOJ	Department of Justice

FDIC	Federal Deposit Insurance Corporation		Urban Development
EFTA	Electronic Fund Transfer Act	IRS	Internal Revenue Service
Federal bank regulatory agencies	FDIC, FRB, and OCC	MLO	Mortgage Loan Originator
Federal financial institution regulatory agencies	CFPB, FDIC, FRB, NCUA, and OCC	MOU	Memorandum of Understanding
FEMA	Federal Emergency Management Agency	NFIP	National Flood Insurance Program . U.S. government program to allow the purchase of flood insurance from the government.
FFIEC	Federal Financial Institutions Examination Council	NMLS	National Mortgage Licensing System
FHFA	Federal Housing Finance Agency	OCC	Office of the Comptroller of the Currency
FHA	Federal Housing Administration	OFAC	Office of Foreign Asset Control
FinCEN	Financial Crime Enforcement Network	OREO	Other Real Estate Owned
FR	Federal Register . U.S. government daily publication that contains proposed and final administrative regulations of federal agencies.	ORM	Qualified Residential Mortgage
FRB (or Fed)	Federal Reserve Board	Reg.	Abbreviation for "Regulation" – A federal regulation. These are found in the CFR.
FSOC	Financial Stability Oversight Council	Reg. B	Equal Credit Opportunity
FTC	Federal Trade Commission	Reg. C	Home Mortgage Disclosure
GAO	Government Accountability Office	Reg. DD	Truth in Savings
HARP	Home Affordable Refinance Program	Reg. E	Electronic Fund Transfers
HAMP	Home Affordable Modification Program	Reg. G	S.A.F.E. Mortgage Licensing Act
HMDA	Home Mortgage Disclosure Act	Reg. P	Privacy of Consumer Financial Information
HOEPA	Home Ownership and Equity Protections Act of 1994	Reg. X	Real Estate Settlement Procedures Act
HPML	Higher Priced Mortgage Loan	Reg. Z	Truth in Lending
HUD	U.S. Department of Housing and	RESPA	Real Estate Settlement Procedures Act
		SAR	Suspicious Activity Report –

	Report financial institutions file with the U.S. government (FinCEN) regarding activity that may be criminal in nature.	TIN	Tax Identification Number
		Treasury	U.S. Department of Treasury
SDN	Specially Designated National		
TILA	Truth in Lending Act		

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²¹ <http://www.occ.gov/news-issuances/news-releases/2015/nr-occ-2015-103.html>

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