



Community Bankers of Iowa December 2014

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Regulatory Compliance Update

December 2014

Around the agencies

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

Joint agency issuances

Second regulatory review hearing will be February 4th in Dallas

The first EGRPRA Hearing (Economic Growth & Regulatory Paperwork Reduction Act of 1996) was held in Los Angeles the first week of December. Under EGRPRA, the bank regulatory agencies, along with the Federal Financial Institutions Examination Council, are required to review their regulations at least every 10 years to identify outdated or otherwise unnecessary regulatory requirements imposed on insured depository institutions. As part of this effort, five regional meetings are being held to solicit input from the public, bankers, trade associations, consumer groups and other interested parties. The [second of these sessions will be in Dallas](#)¹ on February 4, 2015 at the Dallas Federal Reserve Bank at 200 N. Pearl Street.

Comment: Click [here](#)² to view videos or print out a transcript from the Los Angeles meeting.

CFPB issuances

CFPB applauds Department of Defense allotment system reforms

The CFPB issued a [statement](#)³ applauding the U.S. Department of Defense's [announcement](#)⁴ of new protections for servicemembers using the military discretionary allotment system. 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 (Automated Clearing House) can end up losing out on certain legal protections. The changes eliminate the aspects that are more frequently abused by businesses. Under the regulations, new allotments to purchase, lease or rent personal property will be prohibited. Personal property includes vehicles, appliances and consumer electronics, as well.

Comment: Allotments made for the purpose of savings, insurance premiums, mortgage or rent payments, support for dependents, or investments will not be affected.

CFPB publishes rulemaking agenda

The CFPB posted a semi-annual update of our [rulemaking agenda](#)⁵ in conjunction with a broader initiative led by the Office of Management and Budget to publish a Unified Agenda of Regulatory and Deregulatory Actions across the federal government. Portions of the Unified Agenda will be published in the Federal Register, and the full set of materials is now available online.

Comment: Under the Regulatory Flexibility Act, federal agencies are required to publish regulatory agendas twice a year. The CFPB's regulatory agenda includes rulemaking actions in the following stages: pre-rule, proposed rule, final rule, long term actions, and completed actions.

CFPB to analyze saving habits of the low- and moderate- income

The CFPB announced a Project Catalyst research pilot to analyze the effectiveness of certain practices designed to encourage positive saving habits. The research will focus on saving behavior among low- and moderate- income prepaid card users who often do not have access to traditional savings accounts and may face unique challenges building regular saving habits. [Project Catalyst Announcement 2014-03](#)⁶.

Comment: Interestingly, three days after this announcement, the American Banker included an [opinion piece](#)⁷ (subscription required) entitled My Life on the CFPB 'Dark Side' in which former CFPB Assistant Director Cliff Rosenthal talks about the good, the bad, and the ugly of his time at the CFPB, including his efforts to get the CFPB to focus on encouraging low- to moderate- income individuals to build savings.

CFPB blog

[Sunshine for college credit card agreements](#)

[Evaluating ways to promote regular saving habits among prepaid card users](#)

[Consumer Advisory: Student loan debt relief companies may cost you thousands of dollars and drive you further into debt](#)

[Live from Oklahoma City!](#)

[Consumer Advisory: 7 ways to keep medical debt in check
Here's how medical debt hurts your credit report](#)

[Save the date, Oklahoma City!](#) (A field hearing on medical debt collection was held on December 11.)

[Save the date and call for research papers](#) (Request for papers for a May 7-8, 2015, research conference on consumer finance. Submit papers by January 16, 2015)

[Food for thought at your Thanksgiving table](#)

[The 2014 annual report from the CFPB Ombudsman's Office](#)

[Fall 2014 rulemaking agenda](#)

[Proposed changes to our Mortgage Servicing Rules: New protections for surviving family members and other homeowners](#)

FDIC issuances

FDIC issues statement on applications for deposit insurance

The FDIC issued guidance in the form of [Q&As](#)⁸ to aid applicants in developing proposals for deposit insurance and to provide transparency to the application process.

Comment: The Q&As address pre-filing meetings, processing timelines, initial capitalization, and initial business plans of de novo institutions.

FDIC on State banks performing activities and investments permissible for national banks

The FDIC issued [FIL-54-2014](#) stating that a State bank (or its subsidiary) engaging in activities or investments permissible for a national bank (or its subsidiary) should establish and maintain files documenting that those activities (as well as the organizational structure of the subsidiary) are permissible for a national bank (or its subsidiary). A State bank is not required to file an application or notice pursuant to Part 362 to engage in Activities that are permissible for a national bank if the bank maintains certain documentation.

FDIC reports revenue increase for financial institutions

The FDIC [reported](#)⁹ that commercial banks and savings institutions insured by the FDIC reported aggregate net income of \$38.7 billion in the third quarter of 2014, up \$2.6 billion (7.3 percent) from earnings of \$36.1 billion the industry reported a year earlier. The increase in earnings was mainly attributable to a \$7.8 billion (4.8 percent) increase in net operating revenue (the sum of net interest income and total noninterest income), the biggest since the fourth quarter of 2009. Almost two-thirds of the 6,589 insured institutions reporting (62.9 percent) had year-over-year growth in quarterly earnings. The proportion of banks that were unprofitable during the third quarter fell to 6.4 percent from 8.7 percent a year earlier. [Quarterly Banking Profile](#)¹⁰.

FDIC Thaws De Novo Requirements

After years of stagnation in new bank charters due in part to stringent requirements set by the FDIC, the regulator softened expectations in a recent document clarifying chartering policy. The [document](#)¹¹, which was released at the FDIC’s advisory committee on community banking, clarified that:

- New charters must retain an 8% tier 1 leverage ratio for the first three years of operation, not seven years. This applies to applications displaying a “traditional risk profile” and the FDIC could seek a higher level of capital for proposals with heightened risk and complexity.
- Applicants are required to detail their business plan for the first three years of operation, not seven years.

Comment: According to reporting by American Banker ([FDIC Gives Ground on De Novo Applications](#)¹², Nov. 24, 2014—subscription required), officials at the meeting “also highlighted a change eliminating the requirement for FDIC-supervised state banks to seek approval to engage in activities through limited liability companies.” The document said the FDIC also “strongly encourages” meetings between regulators and potential applicants before formal filings, in the interest of setting regulatory expectations and “promot[ing] open communication.”

Federal Reserve issuances

Federal Reserve semi-annual update of Consumer Compliance Handbook

The Federal Reserve released its semi-annual update of the [Consumer Compliance Handbook](#)¹³.

Federal Reserve Financial Services will be open for business on December 26, 2014

Although some Federal Government offices will be closed on December 26, 2014, Federal Reserve Financial Services will be open for business.

Comment: For a complete list of Federal Reserve Bank holidays through 2017, please see the [Holiday Schedules](#) section of [FRBservices.org](#).

Federal Reserve posts TILA/RESPA webinar recordings

Recordings of the June, August, and October TILA/RESPA webinars are now available. Enter the email address you originally used to register for the event or complete the registration form if you have not previously registered:

- June 17 — [TILA-RESPA Integrated Disclosures Rule, Part 1 — Overview of the Rule¹⁴](#)
- August 26 — [FAQ's on the TILA-RESPA Integrated Disclosures Rule, Part 2¹⁵](#)
Topics Covered:
 - Application (continued from June 17th session)
 - Scope
 - Record Retention
 - Timing for Delivery and Re-disclosure
 - Tolerance
 - Basic Form Contents
- October 1 — [FAQs on the TILA-RESPA Integrated Disclosures Rule, Part 3 — Completing the Loan Estimate¹⁶](#)

Comment: These are very detailed webinars. If you plan on taking notes, you will likely need at least an hour and a half to allow yourself time to listen to some of the sections two or three times. Also, it is a good idea to listen in a group so you can stop the webinar periodically to discuss what you heard.

National Settlement Service expands hours

Effective Monday, January 12, 2015, the Federal Reserve Banks will expand the operating hours of the National Settlement Service by opening the settlement window one hour earlier (at 7:30 a.m. ET) and closing it one half-hour later (at 5:30 p.m. ET). The settlement window is currently open from 8:30 a.m. to 5:00 p.m. ET.

Comment: The National Settlement Service is a multilateral settlement service owned and operated by the Federal Reserve Banks. The service is offered to depository institutions that settle for participants in clearinghouses, financial exchanges and other clearing and settlement groups. Settlement agents, acting on behalf of those depository institutions in a settlement arrangement, electronically submit settlement files to the Federal Reserve Banks. Files are processed on receipt, and entries are automatically posted to the depository institutions' Federal Reserve Bank accounts. There are approximately 17 NSS arrangements that have been established by financial market utilities, check clearinghouse associations, and automated clearinghouse networks.

OCC issuances

OCC Calendar Year 2015 fees and assessments structure

The OCC issued a [bulletin¹⁷](#) informing all national banks, federal savings associations, and federal branches and agencies of foreign banks of fees and assessments charged by the OCC for calendar year 2015. The bulletin becomes effective January 1, 2015.

Comment: For the 2015 assessment year, the OCC has increased the rates for all asset categories. The OCC has made these changes to accommodate increased supervisory responsibilities associated with the Dodd-Frank Act.

OCC: Bank Accounting Advisory Series updated

The OCC released an [update to the Bank Accounting Advisory Series](#)¹⁸ (BAAS). The BAAS covers a variety of topics and promotes consistent application of accounting standards among national banks and federal savings associations. This update includes recent answers to frequently asked questions from the industry and examiners covering areas such as acquired loans, allowance for loan and lease losses, other real estate owned, and other borrowings. The BAAS does not represent official rules or regulations of the OCC. Rather, it represents the OCC's Office of the Chief Accountant's interpretations of generally accepted accounting principles and regulatory guidance based on the facts and circumstances presented. National banks and federal savings associations that deviate from these stated interpretations may be required to provide justification to the OCC. The OCC plans to update the BAAS annually.

Comment: New and updated topics are listed on page i of the BAAS.

OCC issues TILA booklet of Comptroller's Handbook

The OCC issued the [TILA booklet of the Comptroller's Handbook](#)¹⁹. This revised booklet replaces a similarly titled booklet issued in December 2010. This booklet provides updated guidance and procedures to examiners in connection with recent changes made to Regulation Z, primarily with regard to mortgage lending.

Comment: The booklet provides background information and optional expanded examination procedures for TILA and Regulation Z. Examiners decide which of these procedures are necessary, if any, after completing a compliance core assessment as outlined in the "Community Bank Supervision," "Large Bank Supervision," and "Federal Branches and Agencies Supervision" booklets of the Comptroller's Handbook. Complaint information received by the Office of the Ombudsman and the Customer Assistance Group may also be useful in completing the assessment.

Other federal agencies

Revised 2014 BSA/AML Exam Manual Now Available

The FFIEC recently released the revised 2014 Bank Secrecy Act/Anti-Money Laundering Examination Manual. Revisions cover supervisory expectations and regulatory changes since the manual's 2010 update in addition to other changes. FinCEN and OFAC assisted on revisions made to information about compliance with regulations and

sanctions associated with programs administered by those agencies. The manual can be accessed [here](#)²⁰.

Comment: Sections that have been added or significantly modified from the previous edition are reflected by date in the Table of Contents, which begins on page i. You can access any section in the manual by clicking on it in the Table of Contents.

FinCEN: FBAR Filing Requirement Extended

FinCEN announced ([FinCEN Notice 2014-1](#)²¹) a further extension of time for certain Report of Foreign Bank and Financial Accounts (FBAR) filings in light of ongoing consideration of questions regarding the filing requirement and its application to individuals with signature authority over but no financial interest in certain types of accounts.

Comment: Anyone with a financial interest in or signature authority over a foreign financial account, including a bank account, brokerage account, mutual fund, trust, or other type of foreign financial account, exceeding certain thresholds, the Bank Secrecy Act may be required to report the account yearly to the Department of Treasury by electronically filing a FBAR. FinCEN extended the filing due date to June 30, 2016, for individuals whose filing due date for reporting signature authority was previously extended by [Notice 2013-1](#)²².

OFAC answers a frequently asked question on Cuba

Q. How will OFAC implement the changes to the Cuba sanctions program announced by the President on December 17, 2014? Are the changes effective immediately?

A. OFAC will implement the Treasury-specific changes via amendments to its Cuban Assets Control Regulations. The Department of Commerce will implement the remainder of the changes via amendments to its Export Administration Regulations. OFAC expects to issue its regulatory amendments in the coming weeks. None of the announced changes takes effect until the new regulations are issued.

Comment: You can find more information and sign up for email alerts regarding Cuba on the Treasury's [Cuba Sanctions](#)²³ page.

Treasury and HUD announce enhancements to housing program

Treasury and HUD announced [enhancements to programs under Making Home Affordable](#)²⁴ (MHA). The enhancements are designed to motivate homeowners in MHA to continue making their mortgage payments on-time, strengthen the safety net for those facing continuing financial hardships, and help homeowners in MHA programs build equity in their homes.

Comment: Under the revised guidelines, all homeowners in HAMP will now be eligible to earn \$5,000 in the sixth year of their modification, which will reduce their outstanding principal balance by as much as \$10,000. Homeowners will also be offered an opportunity to re-amortize the reduced mortgage balance, which will have the effect of lowering their monthly payment. In addition, in an effort to bolster the safety net for homeowners who face difficulty making their payments in HAMP Tier 1 or similar non-HAMP modifications, Treasury and HUD have introduced enhancements to HAMP Tier 2 and the Home Affordable Foreclosure Alternatives® (HAFA) Program. HAMP Tier 2 is an alternative modification that provides a low fixed rate for the life of the loan to homeowners who do not qualify for or cannot sustain a HAMP Tier 1 modification. The enhancements announced include reducing the interest rate for HAMP Tier 2 by 50 basis points and extending the \$5,000 pay-for-performance incentive to HAMP Tier 2 borrowers in good standing at the end of the sixth year of their modification.

Odds and ends

Executive Leadership of Cybersecurity seminar

On December 3, 2014, ELOC held a seminar to discuss the current cyber threat landscape, the collection and sharing of cyber threat intelligence and best practices in cybersecurity management. The keynote speaker, Deputy Treasury Secretary Sarah Bloom Raskin, presented logical and understandable ideas for banks to adopt in developing and maintaining effective cybersecurity programs. The goal of the summit was for community bank chief executive officers (CEOs) and senior executive leadership to walk away more informed about the current cyber threat landscape, steps CEOs should take in managing their banks cybersecurity, and information sharing resources that are available to them. The documents below are useful guides applicable to almost any size community bank.

[Leadership Steps Every CEO Should Take](#)²⁵

[Questions Community Bank Directors Should Ask](#)²⁶

[ELOC Action Planning](#)²⁷

U.S. Supreme Court sets oral arguments in disparate impact case

Oral arguments in the U.S. Supreme Court case of *Texas Department of Housing and Community Affairs v. The Inclusive Communities Project, Inc.* are set for January 21, 2015.

Comment: The issue in this case is whether disparate-impact claims are cognizable under the Fair Housing Act, but the decision should be applicable to all fair lending laws and could affect whether regulators may use disparate impact in examining your loan portfolio.

Card Wars - PULSE vs. Visa

During the last week of November, PULSE filed suit in a Houston federal court against Visa, citing many antitrust violations including monopolization of the debit network services market.

The PULSE suit is based on Visa's actions since the enactment of the Durbin amendment as part of the Dodd-Frank legislation in 2010. Besides restricting bank interchange fees, Durbin was intended to enhance competition among debit networks. PULSE maintains that Visa launched several anti-competitive initiatives in response including the establishment of a fixed-acquirer network fee and a PIN-authenticated Visa debit mandate. As a result, network fees paid by merchants have risen and competition has been thwarted.

Comment: PULSE President and CEO David Schneider assured PULSE participants that the lawsuit will not impact PULSE's day-to-day business with Visa.

Banks' lawsuit against Target survives motion to dismiss

According to the [National Law Review](#)²⁸, a federal judge has allowed a lawsuit by banks that issued debit and credit cards to proceed against Target. The plaintiffs are accusing Target of negligence and seeking their costs of reissuing debit and credit cards. The plaintiffs are seeking class-action status for all banks affected. [Memorandum and Order](#)²⁹.

Comment: According to ICBA, the data breaches at Target and Neiman Marcus cost the community banking industry \$40 million.

Publications, reports, studies, testimony & speeches

GAO issues report on the affect of Basel III regulations

The GAO issued a [report](#)³⁰ examining how (1) the U.S. Basel III regulations may affect U.S. banks, including smaller ones, and (2) implementation of Basel III by different countries and other jurisdictions may affect U.S. banking organizations' international competitiveness.

CFPB Ombudsman issues annual report

The CFPB's Ombudsman issued [FY2014 annual report](#)³¹ to the Director of the Consumer Financial Protection Bureau, pursuant to the CFPB Ombudsman's Office Charter.

Fed issues semiannual report on banking applications activity

This [report](#)³² provides information regarding the applications filed by banking organizations and reviewed by the Federal Reserve as of the most recent reporting period ending on June 30 and December 31 of each calendar year.

Feds call for community bank regulatory relief

At an interagency outreach meeting on the Economic Growth and Regulatory Paperwork Reduction Act (EGRPRA) in Los Angeles, Comptroller of the Currency Thomas Curry and Fed Board Governor Lael Brainard spoke about the need for a reduction in regulatory burden for community banks, now and in the future.

Comment: Comment: In his [opening remarks](#)³³, Curry urged Congressional action on three proposals – applying the 18-month examination cycle for banks \$750 million and below (from the current threshold of \$500 million), creating an explicit exemption from the Volcker Rule for banks with less than \$10 billion in assets, and allowing federal savings associations and national banks to change their business plans without being required to change charters.

“Each unnecessary rule we eliminate or streamline makes it that much easier for [community banks] to serve the economic needs of their communities,” Curry said. “I think these are meaningful steps that could help a great number of smaller institutions.”

In Brainard’s [comments](#)³⁴, he called for regulations to be “appropriately calibrated for smaller institutions,” saying it would be “counterproductive” to subject community banks to provisions of Dodd-Frank which were intended for the largest banks.

Fed’s Beige Book

Prepared at the Federal Reserve Bank of Chicago and based on information collected on or before November 24, 2014. This [document](#)³⁵ summarizes comments received from business and other contacts outside the Federal Reserve and is not a commentary on the views of Federal Reserve officials. Click [here](#)³⁶ for a summary.

FDIC state profiles

The FDIC has posted its [third quarter 2014 state profiles](#)³⁷.

Fed issues December FedFocus

The Fed’s [December Fedfocus](#)³⁸ includes articles on Federal Reserve Financial Services, maximizing FedLine connection, the Deposit Visual Reference Guide, commemorating the Fed’s centennial, and education opportunities.

Experian data breach forecast

Experian® Data Breach Resolution issued a report entitled [2015 Data Breach Industry Forecast](#)³⁹. To help businesses understand implications of upcoming changes and navigate the road ahead, Experian developed six key predictions about how the data breach industry will evolve in 2015. Experian also looked back at how their 2014 predictions played out.

OCC's Senior Critical Infrastructure Officer discusses cyberthreats

The Office of the Comptroller of the Currency's Senior Critical Infrastructure Officer Valerie Abend discussed regulatory efforts to address cyber threats and vulnerabilities and coordinate information sharing for the benefit of the banking industry, regulatory community, and the financial system during testimony before the U.S. Senate Committee on Banking, Housing, and Urban Affairs. [Oral Statement](#)⁴⁰ [Written Testimony](#)⁴¹

OCC Comptroller Curry speaks on cybersecurity at community banks

Click [here](#)⁴² to read Comptroller of the Currency Thomas J. Curry's cybersecurity speech at the 10th Annual Community Bankers Symposium.

House report: FDIC's Involvement in "Operation Choke Point"

The U.S. House of Representatives Committee on Oversight and Government Reform issued a report entitled [Federal Deposit Insurance Corporation's Involvement in "Operation Choke Point."](#)⁴³

Comment: The report included these key findings:

- *The Federal Deposit Insurance Corporation, the primary federal regulator of over 4,500 banks, targeted legal industries. FDIC equated legitimate and regulated activities such as coin dealers and firearms and ammunition sales with inherently pernicious or patently illegal activities such as Ponzi schemes, debt consolidation scams, and drug paraphernalia.*
- *FDIC achieved this via "circular argument" policymaking: there was no articulated justification or rationale for the original list of "high-risk merchants." Yet a list of "potentially illegal activities" included in FDIC's formal guidance to banks justified itself by claiming that the categories had been previously "noted by the FDIC."*
- *FDIC's explicitly intended its list of "high-risk merchants" to influence banks' business decisions. FDIC policymakers debated ways to ensure that bank officials saw the list and "get the message."*
- *Documents produced to the Committee reveal that senior FDIC policymakers oppose payday lending on personal grounds, and attempted to use FDIC's*

supervisory authority to prohibit the practice. Personal animus towards payday lending is apparent throughout the documents produced to the Committee. Emails reveal that FDIC's senior-most bank examiners "literally cannot stand payday," and effectively ordered banks to terminate all relationships with the industry.

- *In a particularly egregious example, a senior official in the Division of Depositor and Consumer Protection insisted that FDIC Chairman Martin Gruenberg's letters to Congress and talking points always mention pornography when discussing payday lenders and other industries, in an effort to convey a "good picture regarding the unsavory nature of the businesses at issue."*
- *FDIC actively partnered with Department of Justice to implement Operation Choke Point, and may have misled Congress about this partnership.*

December FedFlash

The December edition of [Fedflash](#)⁴⁴ is available, including articles on Next Generation VPN, seasonal credit applications, FedReceipts RTNs, year-end freeze period for Check Services, and new FedForwards Image Cash Letter deadline.

NMLS Q3 Reports Released

The [NMLS Mortgage Industry Report](#)⁴⁵ was released for the third quarter of 2014. The report contains analysis of companies, branches, and mortgage loan originators who were licensed through NMLS. An update to the [Money Services Business Fact Sheet](#)⁴⁶ has also been posted. For other reports and data, see [NMLS Reports](#).⁴⁷

OCC survey shows underwriting standards continue to ease

The OCC's 20th [Annual Survey of Credit Underwriting](#)⁴⁸ shows a third consecutive year of underwriting standards easing within both commercial and retail products.

The underwriting survey showed banks continued to adapt to changing economic conditions and competition by adjusting underwriting. Examiners noted that banks have eased underwriting standards and increased levels of credit risk in response to competitive pressures, abundant liquidity, and desire for yield in the low interest-rate environment. Large banks, as a group, reported the highest share of eased underwriting standards.

Leveraged loans, indirect consumer, credit cards, large corporate loans, and international loans experienced the most easing in standards and continued the trend from last year.

Examiners also noted increasing policy exceptions centered in commercial products. The combination of increasing policy exceptions and easing underwriting standards can layer risk into loan portfolios that only surfaces during times of stress. Boards of

directors and senior management should consider carefully the impact of the changing mix of more aggressively underwritten loans on the quality and volatility of performance in their loan portfolios.

Banks should properly control the credit risks in underwriting, loan structures, and loan administration, as competition and the anxiety for income can lead to heightened risk. This pressure is especially notable for loan products that have already seen easing, such as leveraged lending, indirect consumer lending, and credit cards.

Comment: Although this is a survey of the 91 largest national banks and federal savings associations, there are lessons community banks can learn—particularly banks regulated by the OCC—about controlling credit risks in underwriting, loan structures, and loan administration.

OCC issues Semiannual Risk Perspective for Fall 2014

The OCC's Semiannual Risk Perspective addresses key issues facing banks. The OCC publishes the report twice a year, drawing upon midyear and year-end data. The fall 2014 report reflects data as of June 30, 2014.

Banks face risks and opportunities. As a report discussing risks, the Semiannual Risk Perspective focuses on issues that pose threats to the safety and soundness of banks. The report presents data in five main areas: the operating environment; bank condition; key risk issues; the range of practice in interest rate risk modeling; and regulatory actions.

Comment: Financial performance of federally chartered institutions was weaker in the first six months of 2014. ROE remained under 10% through June 30th. Smaller bank ROE has improved and nearly matches that of larger banks. The OCC sees evidence of increasing credit risk.

If you don't have time to read the entire 41 page report, you can read these and other conclusions in the Executive Summary on page 5 of the report.

FDIC Winter Supervisory Insights

The FDIC's [Winter 2014 issue of Supervisory Insights](#)⁴⁹ looks at key aspects of interest rate risk (IRR) management, including the implementation of effective governance processes, the development of key assumptions for analyzing IRR, the development of an in-house independent review of IRR management systems, and what to expect during an IRR review.

Federal agency rulemaking:

Selected final rules since last Capitol Comments

Fed Approves Changes to Posting Rules for ACH Transactions

The Federal Reserve [announced](#)⁵⁰ that it adopted [new rules](#)⁵¹ for ACH and commercial check transactions. The new policy changes the times when the Reserve Banks will post ACH debit transactions and commercial checks that are processed overnight.

The board adopted moving the posting of ACH debit transactions processed by the Federal Reserve Banks' FedACH service overnight to 8:30 a.m. ET from 11 a.m. ET to align with the posting of ACH credit transactions. For commercial check transactions, the posting time to receive most credits for deposits and debits for presentments is moved to 8:30 a.m. ET. Additionally, two other posting times at 1 p.m. ET and 5:30 p.m. ET will be established.

The posting rule changes for ACH debit and commercial check transactions will become effective July 23, 2015.

Comment: These new rules could adversely impact community banks that participate in the Fed's same-day automated clearing house debit and commercial check service. Specifically, the policy changes may cause some smaller banks to incur daylight overdrafts and/or hold higher balances with the Fed overnight.

FDIC issues assessments final rule

The FDIC Board of Directors adopted the Assessments Final Rule. The Final Rule revises the FDIC's risk-based deposit insurance assessment system to reflect changes in the regulatory capital rules that go into effect in 2015 and 2018. For deposit insurance assessment purposes, the Final Rule will:

- (1) revise the ratios and ratio thresholds relating to capital evaluations,
- (2) revise the assessment base calculation for custodial banks, and
- (3) require that all highly complex institutions measure counterparty exposure for assessment purposes using the Basel III standardized approach in the regulatory capital rules.

There are two effective dates for item (1): January 1, 2015, and January 1, 2018. The effective date for items (2) and (3) is January 1, 2015. For more information, see [FIL-57-2014](#)⁵².

Comment: This Financial Institution Letter applies to FDIC-insured institutions as follows: item (1) applies to all small institutions (generally, those with less than \$10 billion in assets), including those institutions under \$1 billion in total assets; item (2)

applies to all custodial banks, including those institutions under \$1 billion in total assets; and item (3) does not apply to institutions under \$1 billion in total assets.

Selected upcoming final federal rule compliance dates

- 11.30.2014 Servicemembers Civil Relief Act Notice Disclosure, [Form HUD-92070](#)⁵³, 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.
- 01.01.2015 [Reg. Z annual threshold adjustments](#). The CFPB issued a final rule⁵⁴ 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 [Basel III](#).⁵⁵ 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
- 08.01.2015 [CFPB: Final integrated Mortgage Disclosures Under the RESPA \(Reg. X\) and the Truth In Lending Act \(Reg. Z\)](#)⁵⁶ 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](#).

- 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](#)⁵⁷ 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](#)⁵⁸ 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](#)⁵⁹ 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.
- 07.01.2014 Foreign Tax Compliance Act. FATCA targets noncompliance by U.S. citizens of tax obligations using foreign accounts. FATCA seeks information on accounts held in other countries by U.S. taxpayers. Governments can either permit their Foreign Financial Institutions to enter into agreements with the IRS to provide information or they can enter into one of two alternative Model Intergovernmental Agreements with the U.S. Treasury’s [FATCA page](#)⁶⁰. [List of FATCA agreements in effect](#).⁶¹
- 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 \(TruPs Amendment to Volcker Rule\)](#)⁶² 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 \(the Volcker Rule\)](#) ⁶³ 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](#)⁶⁴
[Federal Banking Regulators: Appraisals for Higher-Priced Mortgage Loans – Supplemental Final Rule](#)⁶⁵ 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](#)⁶⁶
- 01.13.2014 [SEC: Registration of Municipal Advisors](#)⁶⁷ 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](#)⁶⁸ 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](#)⁶⁹ 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](#)⁷⁰ There are a number of effective dates—consult the [compliance guide](#)⁷¹ for details. 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](#)⁷² to read the notice of the delay of the effective date. There are a number of effective dates—consult the [compliance guide](#)⁷³ for details.
- 01.10.2014 CFPB: [RESPA/Regulation X and TILA/Regulation Z Mortgage Servicing](#)⁷⁴ 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](#)⁷⁵:
 - 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](#)⁷⁶
- 01.10.2014 CFPB: [High-Cost Mortgage and Homeownership Counseling Amendments to TILA/Regulation Z and Homeownership Counseling Amendments to RESPA/Regulation X](#)⁷⁷ 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](#)⁷⁸ 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. They 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](#)⁷⁹ 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 \(Basel III\)](#)⁸⁰ 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](#)⁸¹. The FDIC Board of Directors approved an [interim final rule](#)⁸² 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](#)⁸³ to strengthen the supplementary leverage requirements for the largest most systemically important banking organizations. The OCC announced ([NR 2013-110](#)⁸⁴) that it approved a final rule revising regulatory capital rules applicable to national banks and federal savings associations.

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.	DOJ	Reform and Consumer Protection Act
ATM	Automated Teller Machine	FDIC	Department of Justice
CARD Act	Credit Card Accountability Responsibility and Disclosure Act of 2009	EFTA	Federal Deposit Insurance Corporation
CFPB	Consumer Financial Protection Bureau	Federal bank regulatory agencies	Electronic Fund Transfer Act
CFR	Code of Federal Regulations . Codification of rules and regulations of federal agencies.	Federal financial institution regulatory agencies	FDIC, FRB, and OCC
CRA	Community Reinvestment Act . This Act is designed to encourage loans in all segments of communities.	FEMA	CFPB, FDIC, FRB, NCUA, and OCC
CRE	Commercial Real Estate	FFIEC	Federal Emergency Management Agency
CSBS	Conference of State Bank Supervisors	FHFA	Federal Financial Institutions Examination Council
CTR	Currency Transaction Report . Filed for each deposit, withdrawal, exchange of currency that involves a transaction in currency of more than \$10,000.	FHA	Federal Housing Finance Agency
Dodd-Frank Act	The Dodd–Frank Wall Street	FinCEN	Federal Housing Administration
		FR	Financial Crime Enforcement Network
			Federal Register . U.S. government daily publication that contains proposed and final administrative regulations of federal agencies.

FRB (or Fed)	Federal Reserve Board	QRM	Qualified Residential Mortgage
FSOC	Financial Stability Oversight Council	Reg.	Abbreviation for "Regulation" – A federal regulation. These are found in the CFR.
FTC	Federal Trade Commission	Reg. B	Equal Credit Opportunity
GAO	Government Accountability Office	Reg. C	Home Mortgage Disclosure
HARP	Home Affordable Refinance Program	Reg. DD	Truth in Savings
HAMP	Home Affordable Modification Program	Reg. E	Electronic Fund Transfers
HMDA	Home Mortgage Disclosure Act	Reg. G	S.A.F.E. Mortgage Licensing Act
HOEPA	Home Ownership and Equity Protections Act of 1994	Reg. P	Privacy of Consumer Financial Information
HPML	Higher Priced Mortgage Loan	Reg. X	Real Estate Settlement Procedures Act
HUD	U.S. Department of Housing and Urban Development	Reg. Z	Truth in Lending
IRS	Internal Revenue Service	RESPA	Real Estate Settlement Procedures Act
MLO	Mortgage Loan Originator	SAR	Suspicious Activity Report – Report financial institutions file with the U.S. government (FinCEN) regarding activity that may be criminal in nature.
MOU	Memorandum of Understanding	SDN	Specially Designated National
NFIP	National Flood Insurance Program . U.S. government program to allow the purchase of flood insurance from the government.	TILA	Truth in Lending Act
NMLS	National Mortgage Licensing System	TIN	Tax Identification Number
OCC	Office of the Comptroller of the Currency	Treasury	U.S. Department of Treasury
OFAC	Office of Foreign Asset Control		
OREO	Other Real Estate Owned		

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- ⁸⁰ <https://www.federalregister.gov/articles/2013/10/11/2013-21653/regulatory-capital-rules-regulatory-capital-implementation-of-basel-iii-capital-adequacy-transition>
- ⁸¹ <http://www.federalreserve.gov/newsevents/press/bcreg/20130702a.htm>
- ⁸² http://www.fdic.gov/news/board/2013/2013-07-09_notice_dis_a_res.pdf
- ⁸³ http://www.fdic.gov/news/board/2013/2013-07-09_notice_dis_b_res.pdf
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