



Community Bankers of Iowa January 2014

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Regulatory Compliance Update

January 2014

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

Recent News

Agencies approve rule regarding TruPS CDOs

On January 14, 2014, the FDIC, OCC, SEC, and CFTC (U.S. Commodities Trading Commission) (the agencies) approved an interim [final rule](#)¹ to permit banking entities to retain interests in certain collateralized debt obligations backed primarily by trust preferred securities (TruPS CDOs) from the investment prohibitions of section 619 of the Dodd-Frank Act, known as the Volcker rule.

Under the interim final rule, the agencies permit the retention of an interest in or sponsorship of covered funds by banking entities if the following qualifications are met:

- the TruPS CDO was established, and the interest was issued, before May 19, 2010;
- the banking entity reasonably believes that the offering proceeds received by the TruPS CDO were invested primarily in Qualifying TruPS Collateral; and
- the banking entity's interest in the TruPS CDO was acquired on or before December 10, 2013, the date the agencies issued final rules implementing section 619 of the Dodd-Frank Act.

The federal banking agencies on January 14th also released a non-exclusive list of issuers that meet the requirements of the interim final rule.

The interim final rule defines Qualifying TruPS Collateral as any trust preferred security or subordinated debt instrument that was:

- issued prior to May 19, 2010, by a depository institution holding company that as of the end of any reporting period within 12 months immediately preceding the issuance of such trust preferred security or subordinated debt instrument had total consolidated assets of less than \$15 billion; or
- issued prior to May 19, 2010, by a mutual holding company.

Section 171 of the Dodd-Frank Act provides for the grandfathering of trust preferred securities issued before May 19, 2010, by certain depository institution holding companies with total assets of less than \$15 billion as of December 31, 2009, and by mutual holding companies established as of May 19, 2010. The TruPS CDO structure was the vehicle that gave effect to the use of trust preferred securities as a regulatory

capital instrument prior to May 19, 2010, and was part of the status quo that Congress preserved with the grandfathering provision of section 171.

The interim final rule also provides clarification that the relief relating to these TruPS CDOs extends to activities of the banking entity as a sponsor or trustee for these securitizations and that banking entities may continue to act as market makers in TruPS CDOs.

The agencies will accept comment on the interim final rule for 30 days following publication of the interim final rule in the Federal Register.

Comment: This interim final rule will mitigate the effects of the Volcker rule on the capital of many community banks.

CFPB seeks new members for Advisory Boards and Councils

CFPB invited the public to apply for membership for appointment to its Consumer Advisory Board (the “Board”), Community Bank Advisory Council, and Credit Union Advisory Council. Membership of the Board and Advisory Councils includes representatives of consumers, communities, the financial services industry and academics. Appointments to the Advisory Board are typically for three years and appointments to the Advisory Councils are typically for two years. The Bureau expects to announce the selection of new members in August 2014. Click [here](#)² to see the background, qualifications, and application procedures.

Comment: In the fall, the following will become vacant: 7 seats on the Consumer Advisory Board, 8 seats on the Community Bank Advisory Council, and 8 seats on the Credit Union Advisory Council. The CFPB is looking for experts in a variety of disciplines (consumer protection, community development, consumer finance, fair lending, civil rights, and financial products and services), bank representatives in underserved communities, representatives of communities significantly impacted by higher priced mortgages, current community bank and credit union employees, and academics. Applications must be received on or before February 28, 2014.

CFPB revises consumer mortgage publications including 2 required booklets

The CFPB announced the availability of three revised consumer publications, including a consumer information brochure and two booklets required under the RESPA, Regulation X, the TILA, and Regulation Z. Revision of Consumer Information The publications are: [What You Should Know About Home Equity Lines of Credit](#), the [Consumer Handbook on Adjustable-Rate Mortgages \(CHARM Booklet\)](#), and the [Shopping for Your Home Loan: Settlement Cost Booklet](#).

Comment: Send these to your mortgage lenders and tell them to bookmark them. Unfortunately, the results of a search of the CFPB’s web site did not bring the revised publications to the top of the list.

Annual adjustment to CRA asset-size thresholds

The federal banking regulatory agencies announced the [annual adjustment to the asset-size thresholds](#)³ used to define small bank, small savings association, intermediate small bank, and intermediate small savings association under the CRA regulations. As a result of the 1.39 percent increase in the CPI index for the period ending in November 2013, the definitions of small and intermediate small institutions for CRA examinations will change as follows:

- "Small bank" or "small savings association" means an institution that, as of December 31 of either of the prior two calendar years, had assets of less than \$ 1.202 billion.
- "Intermediate small bank" or "intermediate small savings association" means a small institution with assets of at least \$ 300 million as of December 31 of both of the prior two calendar years, and less than \$ 1.202 billion as of December 31 of either of the prior two calendar years.

These asset-size threshold adjustments were effective January 1, 2014.

Comment: Current and historical asset-size thresholds are on the [FFIEC website](#)⁴.

Has CFPB effectively prohibited dealer markup in indirect auto lending?

The CFPB and the Department of Justice [ordered](#)⁵ Ally Financial and Ally Bank to pay \$80 million to harmed African-American, Hispanic, and Asian and Pacific Islander borrowers and \$18 million in penalties.

Comment: The CFPB may have effectively prohibited dealer markup in indirect auto lending. If your bank buys dealer paper, you need to be aware of this. If you buy dealer paper, you will either need to carefully monitor the fair lending risk of dealer markups or eliminate dealer markup in favor of another dealer compensation structure. I think most banks adopt the latter, less risky alternative. In March, the CFPB issued a bulletin explaining that they would hold indirect auto lenders accountable for unlawful discriminatory pricing. This order is their message that they mean business. It is odd though that it comes against a bank whose majority owner is the U.S. government.

FinCEN requests BSA Advisory Group membership nominations

FinCEN [invites the public to nominate](#)⁶ financial institutions and trade groups for membership on the Bank Secrecy Act Advisory Group. New members will be selected for three-year membership terms.

Comment: BSAAG membership is open to financial institutions and trade groups. New members will be selected to serve a three-year term and must designate one individual to represent that member at plenary meetings who must not be registered as a lobbyist. Organizations must nominate themselves.

OCC Bulletin highlights guidance on deposit advance products

The OCC released [OCC Bulletin 2013-40](#)⁷ highlighting the final guidance (“[Guidance on Supervisory Concerns and Expectations Regarding Deposit Advance Products](#)”⁸ (guidance)) it and the FDIC finalized in November 2013. The guidance addresses safe and sound banking practices and consumer protection in connection with deposit advance products (DAP).

The guidance;

- outlines appropriate underwriting policies and practices, including establishing customers’ eligibility and assessing their ability to repay while allowing borrowers to continue to meet typical recurring and other necessary expenses.
- requires banks to monitor DAP portfolios in accordance with established credit risk standards such as capital adequacy, reliance on fee income, adequacy of the allowance for loan and lease losses, etc.
- implements a “cooling off” period of at least one monthly statement cycle after repayment.
- states that the OCC will take appropriate supervisory action to address unsafe and unsound banking practices and any violation of consumer protection statutes.

Comment: The Fed issued a [Statement On Deposit Advance Products](#)⁹ last year that was not nearly as detailed and the CFPB issued a [white paper](#)¹⁰ with initial data findings.

CFPB increases HMDA threshold to \$43 million

The CFPB published a [final rule](#)¹¹ 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 Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The exemption threshold is adjusted to increase to \$43 million from \$42 million. The adjustment is based on the 1.4 percent increase in the average of the CPI-W for the 12-month period ending in November 2013. Therefore, banks, savings associations, and credit unions with assets of \$43 million or less as of December 31, 2013, are exempt from collecting data in 2014.

Comment: The rule became effective January 1, 2014 and applies to data collection in 2014.

HPML escrow exemption threshold adjusted to \$2.028 billion

CFPB [amended](#)¹² 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 higher-priced mortgage loan based on the annual percentage change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W) for the 12-month period ending in November. The exemption threshold is adjusted to increase to \$2.028 billion from \$2 billion. The adjustment is based on the 1.4 percent increase in the average of the CPI-W for the 12-month period ending in November 2013. Therefore, creditors with assets of \$2.028 billion or less as of December 31, 2013, are exempt, if other requirements of Regulation Z also are met, from establishing escrow accounts for higher-priced mortgage loans in 2014.

Comment: The rule became effective January 1, 2014, and applies to whether a creditor is eligible for the exemption in 2014.

FDIC releases videos for bank directors, officers, employees

The FDIC released [four new videos](#)¹³ in its third installment of technical assistance videos to provide useful information to bank directors, officers, and employees on regulatory issues and proposed regulatory changes. These videos pertain to municipal securities, the allowance for loan and lease losses, troubled debt restructuring, and fair lending. The topics of the latest four videos are:

- [Evaluation of municipal securities](#)¹⁴
- [Allowance for loan losses](#)¹⁵
- [Troubled debt restructuring](#)¹⁶
- [Managing fair lending risk](#)¹⁷

Comment: This is the third installment of videos. The first installment of six videos was released in April. The second installment of six videos was released in June. All of the videos can be found [here](#)¹⁸. Some of these videos appear to be exclusively on the FDIC's YouTube channel—others can be watched on the FDIC's website. Some banks block YouTube, you will not be able to watch these on your desktop computer at work.

CFPB requests information on “pain points” of mortgage closing

The CFPB published a [notice](#)¹⁹ in the Federal Register requesting information from the public about mortgage closing. Specifically, the notice seeks information on key consumer “pain points” associated with mortgage closing and how those pain points might be addressed by market innovations and technology.

The CFPB is seeking to encourage the development of a more streamlined, efficient, and educational closing process as the mortgage industry increases its usage of technology, electronic signatures, and paperless processes. According to the CFPB, the next phase of

its Know Before You Owe initiative aims to identify ways to improve the mortgage closing process for consumers.

The notice uses 17 questions to get this information from market participants, consumers, and other stakeholders who work closely with consumers.

Comment: While it will be interesting to see the results of this information gathering by the CFPB, it goes without saying that close to 100% of the pain points in closing a mortgage loan are government creations.

CFPB updates mortgage origination and servicing exam procedures

The CFPB updated its mortgage origination exam procedures and mortgage servicing exam procedures. The [Supervision and Examination Manual](#)²⁰ provides guidance on how the CFPB conducts examinations. These updates harmonize existing procedures for handling mortgage origination and mortgage servicing examinations with the revised interagency procedures that address the new mortgage regulations issued in January 2013, which have now taken effect. The exam procedures for both mortgage origination and mortgage servicing now cover final rules issued by CFPB through November 2013. These examination procedures will be incorporated into the Supervision and Examination Manual at a later date.

Comment: Forward to internal audit.

Call Report for Fourth Quarter 2013

The [materials](#)²¹ attached to [FIL-1-2014](#)²² pertain to the Call Report for the December 31, 2013, 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.

Except for certain institutions with foreign offices, your completed Call Report must be received by Thursday, January 30, 2014, in accordance with the filing requirements discussed below. No extensions of time for submitting Call Report data are granted.

CFPB launches nationwide education campaign about new mortgage rules

The CFPB launched a campaign to educate the public about the new protections provided by the CFPB's mortgage rules. The CFPB released educational materials, including:

- **Sample Letters:** The Bureau released sample letters that consumers can use to find solutions to various problems with their mortgage servicers. The sample letters address such topics as:
 - [Requesting that a servicer correct errors](#)²³: Consumers should use this letter template if they think their servicer has made an error. The instructions for the template describe what information to include in a letter to a servicer, how to identify the error, and include other tips. The template also tells consumers what to expect from the servicer and provides a general idea of the timeline of events once the letter is sent.
 - [Requesting information from a servicer](#)²⁴: Consumers should use this letter template if they need information from their mortgage servicer. The instructions for the template describe what information to include in a letter to a servicer, examples of information requests, and include other tips. The template also tells consumers what to expect from the servicer and provides a general idea of the timeline of events once the letter is sent.
- **Guide for Housing Counselors:** This [guide](#)²⁵ is designed to be a quick reference for housing counselors. The CFPB will also be offering training on the rules for housing counselors.
- **Mortgage Tips:** The CFPB is providing a number of different tips on new rights under the new rules for [homebuyers](#)²⁶ and [homeowners](#)²⁷ at every stage of the mortgage process— from taking out a loan to paying it back. The tips also include [recommendations](#)²⁸ for troubled borrowers facing foreclosure.
- **Answers to Consumer Questions:** The CFPB published [mortgage-related questions](#)²⁹ to AskCFPB, an interactive online tool designed to answer consumers’ most frequently asked questions in plain language.
- **Consumer Tools:** The CFPB website offers a [tool](#)³⁰ to help consumers find local housing counseling agencies. Consumers that have an issue with consumer financial products or services, such as a mortgage, can also submit a [complaint](#)³¹.
- **Factsheets on the Rules:** The CFPB published a [factsheet](#)³² with an overview of all of the new consumer protections in the CFPB’s mortgage rules. The CFPB also published a [summary](#)³³ of the new procedures to facilitate borrowers’ access to foreclosure avoidance options.

Comment: The CFPB has a lot of information on its website for consumers. This campaign highlights much of that information. Your bank might use some of these resources to educate applicants about the new mortgage rules. There is a real fatigue among consumers at hearing that “it is a government requirement.” These resources may help the consumers understand the new rules and understand that when the banker says these are government requirements, it is true. Pass this along to your mortgage lenders.

OCC releases 2014 schedule of workshop for directors

The OCC announced its 2014 schedule of workshops for directors of national community banks and federal savings associations. The OCC examiner-led workshops provide practical training and guidance to directors of national community banks and federal savings associations to support the health of community-based financial institutions.

The OCC offers four workshops at a cost of \$99 each:

CFPB blog³⁴

[Live from Phoenix!](#)³⁵ (CFPB Director's remarks from and a recording of the Phoenix mortgage event.)

[If you're having trouble paying your mortgage, here's how you can take control](#)³⁶

[Qualified Mortgages – What are they and what do they mean for you](#)³⁷

[Helping student loan borrowers stay afloat](#)³⁸

[Here's what the new mortgage rules mean for you](#)³⁹

[It's back to basics for mortgage market in 2014](#)⁴⁰

[Save the date, Phoenix!](#)⁴¹ Announcement of the January 10th event, "Protecting homeowners: New tools for empowering consumers and advocates," in Phoenix.

[Sunshine for student financial products](#)⁴²

[Join us in making mortgage shopping easier](#)⁴³

[Explainer: What the multi-billion dollar Ocwen enforcement action means for you](#)⁴⁴

[What we've been doing for youth financial capability](#)⁴⁵

[Ally to repay \\$80 million to consumers it discriminated against](#)⁴⁶

Publications, reports, studies, testimony & speeches

CRA/HMDA Reporter Newsletter

The January edition of the FFIEC's [CRA/HMDA Reporter Newsletter](#)⁴⁷ is available on the FFIEC web site. The newsletter provides information on various topics to assist in the collection and reporting of CRA and HMDA data. It informs readers of new

developments and changes for the upcoming processing year as well as answers to commonly-asked questions.

Comment: The FFIEC also offers an [archive](#)⁴⁸ of the newsletter going back to 1999.

CFPB releases *Ability-to-Repay: Fact vs. Fiction Guide*

The Ability-to-Repay and Qualified Mortgage rule went into effect on January 10, 2014. There have been rumors about what the rule does and does not do. For that reason, the CFPB released the [Ability-to-Repay: Fact vs. Fiction Guide](#)⁴⁹.

Comment: You might have your non-mortgage lending staff review this to dispel any myths they might have.

FDIC: Winter 2013 Supervisory Insights

The [Winter 2013 issue of Supervisory Insights](#)⁵⁰ features articles addressing the importance of effective interest-rate risk management, results of the FDIC's Credit and Consumer Products/Services Survey, and the new Basel III definition of capital.

2013 Federal Reserve Payments Study

The 2013 Federal Reserve Payments Study is the fifth in a series of triennial studies conducted since 2001 by the Federal Reserve System to estimate aggregate trends in noncash payments in the United States.

Comment: The study states the obvious. Card based payments are increasing at a rate exceeding the decline of check payments. Debit card payments have increased more than any other payment type. Paper checks remain significant, but most of them are processed and cleared electronically. One in six checks was deposited as an electronic image. Unauthorized transactions in 2012 numbered 31.1 million, with a value of \$6.1 billion. Cards had higher unauthorized transactions by number and value. Among cards, PIN debit card transactions had the lowest fraud rates by number and value. Among signature and credit card payments in 2012, card-not-present fraud rates were 3 times as high as card-present fraud.

Federal Reserve Bulletin

[Mortgage Market Conditions and Borrower Outcomes: Evidence from the 2012 HMDA Data and Matched HMDA-Credit Record Data](#)⁵¹ This article describes mortgage lending activity in 2012 based on newly available data reported under the Home Mortgage Disclosure Act of 1975 (HMDA). It also examines a new data set composed of HMDA records matched to borrowers' credit records. The matched data help document differences in the financial circumstances (credit scores and debt-to-income ratios) and

subsequent loan performance of borrowers grouped by their race or ethnicity and income.

[Consumer Experiences with Credit Cards](#)⁵² This article examines consumers' behavior, experiences, and attitudes regarding credit cards in the aftermath of the Great Recession and the implementation of the Credit Card Accountability Responsibility and Disclosure Act of 2009.

Comment: This is one of the more interesting findings from the mortgage market article: “Loans to low- and moderate-income borrowers made by banking institutions in 2006 within their CRA assessment areas--loans that the CRA encourages--had a delinquency rate that was lower than that for all loans combined and less than one-fourth the rate for all higher-priced loans of the same vintage. These findings are inconsistent with the notion that the CRA was a principal driver of the mortgage and financial crisis.”

Of the 14 findings in the credit card article, numbers 13 and 14 were probably the most interesting:

13. Most cardholders who hardly ever paid their monthly balance in full or who made only the required minimum payments believed that credit cards made managing their finances less difficult and were satisfied with their accounts. This belief does not seem to support the hypothesis that consumers overestimate their ability to repay their credit card debt.

14. New disclosures appear to have had little effect on the share of cardholders who make only the required minimum payments.

Fed Community Affairs Letters

[Revised RESPA Interagency Examination Procedures \(CA 13-24\)](#)⁵³ reflect recent amendments to RESPA issued by the CFPB.

[Revised Interagency Procedures for Regulation Z and Applicability of CA Letter 09-12 \(CA 13-25\)](#)⁵⁴

[Regulation X Homeownership Counseling List Requirement \(CA 13-26\)](#)⁵⁵ provides two alternatives for lenders to provide the counseling list: (1) obtain the list through a CFPB-created website; or (2) generate the list themselves based on specific CFPB instructions.

Fed updates its Consumer Compliance Handbook

The November 2013 update to the [Consumer Compliance Handbook](#)⁵⁶ reflects updated interagency examination procedures for Regulation E - Electronic Funds Transfer; Fair Credit Reporting; Real Estate Settlement Procedures Act; and Regulation Z - Truth in Lending. This transmittal also includes an executive summary of a newly adopted Community Bank Risk-Focused Consumer Compliance Supervision Program. In addition, a new section on Garnishment of Accounts Containing Federal Benefit Payments is added.

FedFlash for January

The [January updates](#)⁵⁷ include articles on new features of the FedTransaction® tool; ensuring an institution has a current board resolution and an official authorization list on file; new webinar for account management information and accounting information services data file changes; change to e-payments routing directory; 2014 Federal Reserve Financial Services fees effective January 2, 2014; new FedReceipt RTNs, changes to case submission requirements for PAIDs; and change to e-payments routing directory.

Fed issues January FedFocus

[FedFocus](#)⁵⁸ provides 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. The January edition of FedFocus includes these topics: Payment Study, data automation, business continuity, America the Beautiful quarters, and new/updated check adjustment webinars.

Agency rulemaking:

Selected final rules since last Capitol Comments:

[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](#)⁵⁹ 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 .

Effective date: The interim final rule is effective on April 1, 2014. Comment date: Comments on the interim final rule should be received on or before 30 days after publication in the Federal Register, which hadn't happened at time of Capitol Comment publication.

Selected federal rule proposals with open comment periods:

Proposed Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies and Request for Comment⁶⁰

The OCC, Board, FDIC, NCUA, CFPB, and SEC (each an “Agency” and collectively, the “Agencies”) are proposing joint standards for assessing the diversity policies and practices of the entities they regulate. Section 342 of the Dodd-Frank Act directed the establishment of an Office of Minority and Women Inclusion (“OMWI Office”) in each Agency. Each OMWI Office is headed by a Director and is responsible for all Agency matters relating to diversity in management, employment, and business activities. Section 342(b)(2)(C) directs each Agency's OMWI Director to develop standards for assessing the diversity policies and practices of entities regulated by that Agency. This proposed interagency policy statement (“Statement”) identifies these proposed standards and requests comment on all aspects of this Statement. To allow the public more time to consider the proposed assessment standards, the Agencies determined⁶¹ that an extension of the comment period to February 7, 2014, is appropriate. This action will allow interested persons additional time to analyze the interagency policy statement and prepare their comments. Comments must be received on or before February 7, 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 Funds⁶²

See final rule section, above, for description of this interim final rule. Comment date: Comments on the interim final rule should be received on or before 30 days after publication in the Federal Register, which hadn't happened at time of Capitol Comment publication.

Debt Collection (Reg. F)⁶³ The CFPB is seeking comment, data, and information from the public about debt collection practices. Debt collection affects a significant number of consumers and the Bureau is considering proposing rules relating to debt collection. Therefore, the Bureau is interested in learning through responses to this advance notice of proposed rulemaking (ANPR) about the debt collection system, about consumer experiences with the debt collection system, and about how rules for debt collectors might protect consumers without imposing unnecessary burdens on industry. Originally, the Debt Collection ANPR allowed a 90-day comment period, closing on February 10, 2014. The CFPB extended the comment period to February 28, 2014.

Fed: Availability of Funds and Collection of Checks The Fed requested public comment on proposed amendments to check collection and return rules to reflect the

evolution of the nation's check collection system from one that is largely paper-based to one that is virtually all electronic.

The check collection and return provisions in Regulation CC currently apply only to paper checks. The Board is proposing that electronic checks and electronic returned checks that banks exchange by agreement also be subject to these rules unless otherwise agreed by the sending and receiving banks. In addition, the Board is requesting comments on alternative approaches to modify the current expeditious-return and notice of nonpayment requirements to encourage the few remaining banks demanding paper returns to accept electronic returns.

The Board is also proposing a new indemnity for electronic items cleared through the check-collection system that did not originate as paper checks. Comments must be submitted by May 2, 2014.

Selected federal proposed rulemaking with closed comment periods—final rule not yet issued:

[FDIC: Restrictions on Sales of Assets of a Covered Financial Company by the Federal Deposit Insurance Corporation](#)⁶⁴ The FDIC proposed a rule to implement a section of the Dodd-Frank Act. Under the section, individuals or entities that have, or may have, contributed to the failure of a “covered financial company” cannot buy a covered financial company's assets from the FDIC. This proposed rule establishes a self-certification process that is a prerequisite to the purchase of assets of a covered financial company from the FDIC. Comments close on January 6, 2014.

[Federal banking regulators propose rules on loans in areas having Special Flood Hazards](#)⁶⁵ The OCC, FRB, FDIC, FCA, and NCUA (collectively, the Agencies) are proposing to amend their regulations regarding loans in areas having special flood hazards to implement provisions of the Biggert-Waters Flood Insurance Reform Act of 2012. Specifically, the proposal would establish requirements with respect to the escrow of flood insurance payments, the acceptance of private flood insurance coverage, and the force-placement of flood insurance. The proposal also would clarify the Agencies' flood insurance regulations with respect to other amendments made by the Act and make technical corrections. Furthermore, the OCC and the FDIC are proposing to integrate their flood insurance regulations for national banks and Federal savings associations and for State non-member banks and State savings associations, respectively. Comments must be received by December 10, 2013. (The government shutdown has affected the Office of Federal Register.) [FIL-48-2013](#)⁶⁶.

Comment: IBAT filed its [comment letter](#) in response to FDIC's proposed rules on loans in areas having special flood hazards. The letter drew attention to IBAT member concerns regarding:

1. *The ability to determine if private flood insurance is at least as broad as policies provided under standard National Flood Insurance Program policies;*
2. *Escrow requirements for all loans subject to mandatory purchase requirements regardless of whether the loan closed before or after the rule's effective date; and*
3. *A lack of clarity as to whether banks have the ability to recoup costs incurred in obtaining force placed insurance in the event of borrower default.*

Highlights of the proposal: *The proposal would generally require regulated lending institutions, or servicers acting on their behalf, to escrow premiums and fees for flood insurance for any loans secured by residential improved real estate or a mobile home, unless the institutions qualify for the statutory exception. The proposal would also require that regulated lending institutions accept private flood insurance that meets the statutory definition to satisfy the mandatory purchase requirement. The proposal requests comment on whether the Agencies should accept policies that don't meet the FDPA definition of private flood insurance and what the Agencies might require for such a policy. The proposal includes new and revised sample notice forms and clauses. One of the new sample notice forms is Notice of Requirement to Escrow for Outstanding Loans to inform borrowers of the new escrow requirement. The proposal would amend the force-placement provisions to clarify that a lender or servicer has authority to charge for flood insurance on the date coverage lapses or becomes insufficient.*

[Six agencies repropose risk retention rule](#)⁶⁷ This proposal was issued jointly by the Fed, HUD, the FDIC, FHFA, the OCC, and the SEC. The rule would provide asset-backed securities (ABS) sponsors with several options to satisfy the risk retention requirements. The original proposal generally measured compliance with the risk retention requirements based on the par value of securities issued in a securitization transaction and included a so-called premium capture provision. The agencies are now proposing that risk retention generally be based on fair value measurements without a premium capture provision. Comments were due on or before October 30, 2013.

[CFPB: Proposes Consumer Financial Civil Penalty Fund](#)⁶⁸ Concurrent with issuing a final rule, the CFPB also published a proposal and is seeking comments on possible revisions, adjustments, and refinements to the final rule. The comment period closed on July 8, 2013.

Comment: Click [here](#)⁶⁹ to learn about the CFPB's Civil Penalty Fund.



Selected upcoming final federal rule compliance dates:

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](#)⁷⁰ 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 \(the Volcker Rule\)](#)⁷¹
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 \(PDF\)](#).
- 08.15.2015 [CFPB: Final integrated Mortgage Disclosures Under the RESPA \(Reg. X\) and the Truth In Lending Act \(Reg. Z\)](#)⁷² 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](#).

- 01.18.2014 [Federal Banking Regulators: Appraisals for Higher-Priced Mortgage Loans – Supplemental Final Rule](#)⁷³ Alternative provisions regarding manufactured home loans are effective July 18, 2015, as indicated in the Supplementary Information, regulation text and Official Staff Commentary.
- 01.18.2014 CFPB: [Disclosure and Delivery Requirements for Copies of Appraisals and Other Written Valuations Under ECOA/Regulation B](#)⁷⁴
- 01.18.2014 CFPB, FRB, FDIC, FHFA, NCUA, and OCC: [Appraisals for Higher-Priced Mortgage Loans](#)⁷⁵
- 01.13.2014 [SEC: Registration of Municipal Advisors](#)⁷⁶ 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](#)⁷⁷ 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](#)⁷⁸ 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](#)⁷⁹ 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](#)⁸⁰ to read the notice of the delay of the effective date.
- 01.10.2014 CFPB: [RESPA/Regulation X and TILA/Regulation Z Mortgage Servicing](#)⁸¹ 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](#)⁸²:
●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](#)⁸³
- 01.10.2014 CFPB: [High-Cost Mortgage and Homeownership Counseling Amendments to TILA/Regulation Z and Homeownership Counseling Amendments to RESPA/Regulation X](#)⁸⁴ 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](#)⁸⁵ FinCEN and the Fed are issuing this Final Rule amending the regulatory definitions of "funds transfer" and "transmittal of funds" under the regulations implementing the BSA. We are amending the definitions to maintain their current scope in light of changes to the EFTA, which will avoid certain currently covered transactions being excluded from BSA requirements.
- 01.01.2014 [FDIC: Interim rule revising risk-based and leverage capital requirements](#)⁸⁶ 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 \(Basel III\)](#)⁸⁷ 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](#)⁸⁸. The FDIC Board of Directors approved an [interim final rule](#)⁸⁹ 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](#)⁹⁰ to strengthen the supplementary leverage requirements for the largest most systemically important banking organizations. The OCC announced ([NR 2013-110](#)⁹¹) that it approved a final rule revising regulatory capital rules applicable to national banks and federal savings associations.
- 11.04.2013 [Final rule prohibiting issuing credit card unless ability to make payments is considered \(Reg. Z\)](#)
- 10.28.2013 [CFPB: Final Consumer protection rule on international remittances \(Reg. E\)](#) This rule was followed by a clarification: [CFPB Final Rule: Clarificatory amendment and technical correction to a final rule and official interpretation of disclosures for remittance transactions \(Reg. E\)](#)
- 10.17.2013 [FHA approval of lending institutions and mortgagees: streamlined reporting requirements for small supervised lenders and mortgagees](#)⁹² This rule streamlines the FHA financial statement reporting requirements for lenders and mortgagees who are supervised by federal banking agencies and whose consolidated assets do not meet the thresholds set by their supervising federal banking agencies for submission of audited financial statements (currently set at \$500 million in consolidated assets).
- 09.26.2013 [CFPB: Rules of Practice for Issuance of Temporary Cease-and-Desist Orders](#) The Dodd-Frank Act requires the CFPB to prescribe rules establishing procedures for the conduct of adjudication proceedings. On June 29, 2012, the Bureau published the final Rules of Practice for Adjudication Proceedings. That final rule, however, does not apply to the issuance of a temporary cease-and-desist order (TCDO) pursuant to section 1053(c) of the Dodd-Frank Act. The CFPB issued an interim final rule governing such issuance and seeks public comments. The interim final rule took effect on September 26, 2013.
- 07.01.2013 FTC: Amends the Children's Online Privacy Protection Rule ("COPPA Rule" or "Rule"), consistent with the requirements of the Children's Online Privacy Protection Act, to clarify the scope of the Rule and strengthen its protections for children's personal information, in light of changes in online technology since the Rule went into effect in April 2000. The final amended Rule includes modifications to the definitions of operator, personal information, and Web site or online service directed to children. The amended Rule also updates the requirements set forth in the notice, parental consent, confidentiality and security, and safe harbor provisions, and adds a new provision addressing data retention and deletion. (Comment: Financial institutions are subject to COPPA if they operate a website or online services directed to children or have actual knowledge that they are collecting or maintaining personal information from a child online.)
- 06.01.2013 CFPB: [Escrow Requirements for Higher-Priced Mortgages Under TILA/Regulation Z](#)⁹³ The CFPB issued [Clarifications of the 2013 Escrows final rule](#)⁹⁴ (Reg. Z) on May 16, 2013.
- 06.01.2013 Amendments in the [Loan Originator Compensation final rules](#)⁹⁵ to §1026.36 (h) and (i) are effective on this June 1, 2013. Section 1026.36(h) is regarding the prohibition on mandatory arbitration clauses and waivers of certain consumer rights. Section 1026(i) is regarding the prohibition on financing single-premium credit insurance.
- 03.31.2013 FinCEN: SAR/CTR batch filers must update their systems to the [new specifications](#)⁹⁶. ([Extended from June 30, 2012 to March 31, 2013](#)⁹⁷) All institutions that batch file the current CTR, CTR-C, SAR-DI, SAR-SF, SAR-MSB, or SAR-C will have to convert their systems to file the new CTR and SAR. FinCEN will make other filing technical specifications available in the near future.
- 03.28.2013 In order to resolve litigation regarding a Reg. Z provision limiting fees a consumer must pay prior to opening a credit card account, the CFPB issued an April 2012 proposal to amend the rule to be consistent with a court ruling so that it no longer applies to fees charged prior to account opening. On March 22, the CFPB adopted a [final rule](#)⁹⁸ adopting the proposal's elimination of the cap on fees charged prior to account opening.

03.26.2013	The CFPB amended Reg. E ⁹⁹ to conform to legislation that amended the EFTA to eliminate a requirement that owners of ATMs post a fee notice on all ATMs. The onscreen notice requirement remains.
01.01.2013	The IRS final regulations ¹⁰⁰ regarding the reporting requirements for interest that relates to deposits maintained at U.S. offices of certain financial institutions and is paid to certain nonresident alien individuals. These regulations apply to payments of interest made on or after January 1, 2013.
12.31.2012	Housing and Economic Recovery Act by The Helping Heroes Keep Their Homes Act of 2010 – The provision for an extended time period (extended from 90 days to nine months) for protections affecting foreclosure, sale, or seizure of servicemembers’ real or personal property expires.

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.	CFR	Code of Federal Regulations . Codification of rules and regulations of federal agencies.
ATM	Automated Teller Machine	CRA	Community Reinvestment Act . This Act is designed to encourage loans in all segments of communities.
CARD Act	Credit Card Accountability Responsibility and Disclosure Act of 2009	CRE	Commercial Real Estate
CFPB	Consumer Financial Protection Bureau	CSBS	Conference of State Bank Supervisors
		CTR	Currency Transaction Report . Filed for each deposit, withdrawal, exchange of currency that

	involves a transaction in currency of more than \$10,000.	HMDA	Home Mortgage Disclosure Act
Dodd-Frank Act	The Dodd–Frank Wall Street Reform and Consumer Protection Act	HOEPA	Home Ownership and Equity Protections Act of 1994
FDIC	Federal Deposit Insurance Corporation	HPML	Higher Priced Mortgage Loan
EFTA	Electronic Fund Transfer Act	HUD	U.S. Department of Housing and Urban Development
Federal bank regulatory agencies	FDIC, FRB, and OCC	IRS	Internal Revenue Service
Federal financial institution regulatory agencies	CFPB, FDIC, FRB, NCUA, and OCC	MLO	Mortgage Loan Originator
FEMA	Federal Emergency Management Agency	MOU	Memorandum of Understanding
FFIEC	Federal Financial Institutions Examination Council	NFIP	National Flood Insurance Program . U.S. government program to allow the purchase of flood insurance from the government.
FHFA	Federal Housing Finance Agency	NMLS	National Mortgage Licensing System
FHA	Federal Housing Administration	OCC	Office of the Comptroller of the Currency
FinCEN	Financial Crime Enforcement Network	OFAC	Office of Foreign Asset Control
FR	Federal Register . U.S. government daily publication that contains proposed and final administrative regulations of federal agencies.	OREO	Other Real Estate Owned
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
		Reg. G	S.A.F.E. Mortgage Licensing Act
		Reg. P	Privacy of Consumer Financial Information

Reg. X	Real Estate Settlement Procedures Act	SDN	Specially Designated National
Reg. Z	Truth in Lending	TILA	Truth in Lending Act
RESPA	Real Estate Settlement Procedures Act	TIN	Tax Identification Number
SAR	Suspicious Activity Report – Report financial institutions file with the U.S. government (FinCEN) regarding activity that may be criminal in nature.	Treasury	U.S. Department of Treasury

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² <https://www.federalregister.gov/articles/2014/01/15/2014-00635/consumer-advisory-board-and-councils-solicitation-of-applications-for-membership>

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