



Capitol Comments

January 2019

Kelly Goulart, Sr. Manager – Regulatory Compliance
kgoulart@complianceadviser.org | 512.275.2231

Janie Daniel, Regulatory Compliance Adviser
jdaniel@complianceadviser.org | 512.275.2221

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

“Last year’s words belong to last year’s language. And next year’s words await another voice.” – T.S. Eliot

“During the funding lapse, Federalregister.gov is not being supported. If data feeds are not available from GPO, FederalRegister.gov will not be updated, so please use the official edition of the Federal Register on Govinfo (<https://www.govinfo.gov/app/collection/fr>). If there is a technical issue with the Public Inspection List, you can view the documents on public inspection at our office in Washington, DC or on [archives.gov](https://www.archives.gov).”

Joint federal agency issuances, actions and news

Regulators Encourage Institutions to Work with Borrowers Affected by Government Shutdown (01.11.2019)

Five federal financial institutions regulators and state regulators encourage financial institutions to work with consumers affected by the federal government shutdown.

While the effects of the federal government shutdown on individuals should be temporary, affected borrowers may face a temporary hardship in making payments on debts such as mortgages, student loans, car loans, business loans, or credit cards. As they have in prior shutdowns, the agencies encourage financial institutions to consider prudent efforts to modify terms on existing loans or extend new credit to help affected borrowers.

Prudent workout arrangements that are consistent with safe-and-sound lending practices are generally in the long-term best interest of the financial institution, the borrower, and the economy. Such efforts should not be subject to examiner criticism.

Consumers affected by the government shutdown are encouraged to contact their lenders immediately should they encounter financial strain.

Source [link](#).

Comment: Consider relief through overdraft protection, skip a payment, or even small, unsecured loans. The FTC closed Dec. 28 due to the lapse in government funding. The FCC also released [details](#) on the impact of the partial lapse in government funding .

Agencies Invite Comment on a Proposal to Exclude Community Banks from the Volcker Rule (12.21.2018)



Five federal financial regulatory agencies invited public comment on a proposal that would exclude certain community banks from the Volcker rule, consistent with the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).

The Volcker Rule generally restricts banking entities from engaging in proprietary trading and from owning or sponsoring hedge funds or private equity funds. The agencies are jointly proposing to exclude community banks with \$10 billion or less in total consolidated assets and total trading assets and liabilities of 5 percent or less of total consolidated assets from the restrictions of the Volcker Rule.

Additionally, consistent with EGRRCPA, the proposal would, under certain circumstances, permit a hedge fund or private equity fund to share the same name or a variation of the same name with an investment adviser that is not an insured depository institution, company that controls an insured depository institution, or bank holding company.

The proposal was issued by the Federal Reserve Board, the Commodity Futures Trading Commission, the Federal Deposit Insurance Corporation, the Office of the Comptroller of the Currency, and the Securities and Exchange Commission. Comments will be accepted for 30 days after publication in the Federal Register.

Attachment:

[Notice of Proposed Rulemaking: Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds](#)

Source [link](#).

Comment: In May of 2018, Congress adopted the Regulatory Relief Act, which provides the statutory basis for the Proposed Rule. That was followed in June by a proposal released by the Agencies that, if adopted, would amend the regulations implementing the Volcker Rule in several material respects. In the June proposal, the Agencies acknowledged the statutory changes to the Volcker Rule enacted by the Regulatory Relief Act but announced that conforming changes to the regulations would be made through separate rulemaking such as this Proposed Rule.

Agencies Issue Final Rules Expanding Examination Cycles for Qualifying Small Banks and U.S. Branches and Agencies of Foreign Banks (12.21.2018)

WASHINGTON— The Federal banking agencies issued final rules that adopt without change the interim final rules issued in August that expanded the number of insured depository institutions and U.S. branches and agencies of foreign banks eligible for an 18-month on-site examination cycle, rather than a 12-month cycle.

As authorized by the Economic Growth, Regulatory Relief, and Consumer Protection Act, the final rules generally allow qualifying insured depository institutions with less than \$3 billion in total assets to benefit from an extended 18-month on-site examination cycle.

The final rules also adopt without change the interim final rules' parallel changes for the on-site examination cycle of U.S. branches and agencies of foreign banks.

Attachment:

[Final Rule: Expanded Exam Cycle for Certain Small Insured Depository Institutions and U.S. Branches and Agencies of Foreign Banks](#)

Source [link](#).

Comment: Although was just “finalized,” the revised schedule was already in use.

Agencies Allow Three-Year Regulatory Capital Phase In for New Current Expected Credit Losses (CECL) Accounting Standard (12.21.2018)

The federal bank regulatory agencies approved a final rule modifying their regulatory capital rules and providing an option to phase in over a period of three years the day-one regulatory capital effects of the update to the accounting standard known as the "Current Expected Credit Losses" (CECL) methodology. The final rule also revises the agencies' other rules to reflect the update to the accounting standards.

In June 2016, the Financial Accounting Standards Board issued an update to the accounting standards for credit losses that included the CECL methodology, which replaces the existing incurred loss methodology for certain financial assets. During the phase in, the agencies will continue to monitor the impact of CECL adoption.

The final rule will take effect April 1, 2019. Banking organizations that choose to early adopt CECL may elect to adopt the rule as of the first quarter 2019.

Attachment:

[Current Expected Credit Losses \(CECL\) Final Rule](#)

Source [link](#).

Comment: The Financial Accounting Standards Board (FASB) states that the weighted-average remaining maturity (WARM) method of estimating expected credit losses is one of many acceptable methods for complying with the Current Expected Credit Loss (CECL) standard. The WARM method uses an average annual charge-off rate as a foundation for estimating credit-loss content. Bankers have a range of options to comply with CECL as FASB’s accounting standard states there is no preferred method. Access FASB’s WARM Q&A to learn more about this method.

Agencies Release Annual CRA Asset-Size Threshold Adjustments for Small and Intermediate Small Institutions (12.20.2018)

WASHINGTON—The federal bank regulatory agencies announced the annual adjustment to the asset-size thresholds used to define small bank, small savings association, intermediate small bank, and intermediate small savings association under the Community Reinvestment Act (CRA) regulations.

The annual adjustments are required by the CRA rules. Financial institutions are evaluated under different CRA examination procedures based upon their asset-size classification. Those meeting the small and intermediate small institution asset-size thresholds are not subject to the reporting requirements applicable to large banks and savings associations unless they choose to be evaluated as a large institution.

Annual adjustments to these asset-size thresholds are based on the change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), not seasonally adjusted, for each 12-month period ending in November, with rounding to the nearest million.

As a result of the 2.59 percent increase in the CPI-W for the period ending in November 2018, 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 \$1.284 billion.

"Intermediate small bank" or "intermediate small savings association" means a small institution with assets of at least \$321 million as of December 31 of both of the prior two calendar years and less than \$1.284 billion as of December 31 of either of the prior two calendar years.

These asset-size threshold adjustments will be effective as stated in the final rule that will be published in the Federal Register. In addition, the agencies will post a list of the current and historical asset-size thresholds on the website of the Federal Financial Institutions Examination Council (<https://www.ffeec.gov/cra>).

Source [link](#).

Agencies Propose to Update Management Interlock Rules (12.20.2019)

The federal banking agencies on Thursday invited public comment on a proposal to update rules restricting the ability of a director or other management official to serve at more than one depository institution or depository holding company. The proposed changes would provide relief for community banks and better align with other rules.

The current management interlock rules prohibit a director or other management official working at a depository organization (a term defined by regulation to mean either a depository institution or a depository holding company) with more than \$2.5 billion in total assets from serving at the same time at an unaffiliated depository organization with more than \$1.5 billion in total assets. The current thresholds were established by statutory amendment in 1996. The proposal seeks comment on raising both thresholds to \$10 billion in total assets, given the consolidation and growth in the industry over the past 20 years.

Management officials would generally remain prohibited from serving with multiple depository organizations that are above the new thresholds, limiting the potential risk of anticompetitive conduct at larger institutions. The agencies also invite public comment on other proposed approaches to raising the current thresholds.

The proposal responds to comments received during the recent review required by the Economic Growth and Regulatory Paperwork Reduction Act of 1996. It was jointly issued by the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency. Comments will be accepted for 60 days after publication in the Federal Register.

Source [link](#).

Comment: The Agencies also proposed and invited comment on three alternative ways to increase the management interlocks rule thresholds. The current rules implementing the DIMIA were established by the Agencies in 1996.

CFPB actions and news

CFPB Asks Congress for Clear Authority to Supervise for Compliance with the Military Lending Act (01.17.2019)

Washington, D.C. — Consumer Financial Protection Bureau Director Kathleen L. Kraninger issued the following statement announcing that she has asked Congress to grant the CFPB clear authority to supervise for compliance with the Military Lending Act (MLA).

“The Bureau is committed to the financial well-being of America’s service members. This commitment includes ensuring that lenders subject to our jurisdiction comply with the Military Lending Act so our service members and their families are provided with the protections of that law,” Kraninger said. “That’s why I have asked Congress to explicitly grant the Bureau authority to conduct examinations specifically intended to review compliance with the MLA. The requested authority would complement the work the Bureau currently does to enforce the MLA. I was pleased to see legislation proposed recently in the House of Representatives (H.R. 442) that is intended to grant the Bureau such authority. My hope is that bipartisan legislation advances as quickly as possible in the 116th Congress.”

The CFPB transmitted a legislative proposal to the speaker of the U.S. House of Representatives and the vice president in his capacity as president of the U.S. Senate, and shared copies with the chairs and ranking members of the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Financial Services. The Bureau’s legislative proposal is available at: https://www.consumerfinance.gov/documents/7198/cfpb_MLA-legislative-proposal-to-Pence.pdf and https://www.consumerfinance.gov/documents/7197/cfpb_MLA-legislative-proposal-to-Pelosi.pdf.

Source [link](#).

Comment: Cordray took the position that the CFPB already had this authority, but Mulvaney had questioned it. Hence the proposal!

Consumer Financial Protection Bureau Publishes Assessments of Ability-To-Repay and Mortgage Servicing Rules (01.10.2019)

Washington, D.C. — The Consumer Financial Protection Bureau (Bureau) published a report under section 1022(d) of the Wall Street Reform and Consumer Protection Act (Dodd-Frank Act) assessing the effectiveness of the Bureau’s Ability to Repay and Qualified Mortgage Rule and a separate report assessing the effectiveness of the Bureau’s mortgage servicing rule issued under the Real Estate Settlement Procedures Act (RESPA).

The Bureau issued the Ability to Repay and Qualified Mortgage Rule in January 2013 to implement provisions of the Dodd-Frank Act that require lenders, before making a residential mortgage loan, to make a reasonable and good faith determination based on verified and documented information that the consumer has a reasonable ability to repay the loan. The rule took effect in January 2014.

The Bureau also issued the RESPA Mortgage Servicing Rule in January 2013 to implement certain provisions of the Dodd-Frank Act imposing new obligations on mortgage servicers who are generally responsible for billing borrowers for amounts due, collecting payments, disbursing funds, and providing customer service. The rule also added new protections which the Bureau deemed appropriate or necessary to carry out the consumer protection purposes of RESPA. This rule also took effect in January 2014.

The Dodd-Frank Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau and to publish a report of its assessment no later than five years after the effective date of the significant rule or order. The assessment shall address, among other relevant factors, the effectiveness of the rule in meeting the purposes and objectives of the Dodd-Frank Act and the specific goals stated by the Bureau in issuing the rule in question. The assessment shall reflect available evidence and any data that the Bureau reasonably may collect. Before publishing a report of its assessment, the Bureau shall invite public comment on recommendations for modifying, expanding, or eliminating the rule or order.

The assessment of the Ability to Repay and Qualified Mortgage Rule uses a range of data sources, including a unique data set the Bureau assembled for purposes of this assessment, to comprehensively examine the extent to which the rule has affected consumers' access to credit and the cost of credit. The assessment of the Servicing Rule likewise uses a range of data, again including a unique data set the Bureau assembled, to thoroughly examine how the rule has affected the experiences and outcomes for consumers, with a particular focus on those who fall behind on their mortgage payments.

Pursuant to decisions Bureau leadership made in 2015 and 2016, the reports do not include a cost - benefit-analysis of these rules overall or of any specific provisions of these rules, but each report does address matters relating to the costs and benefits. The Bureau is considering whether to include cost-benefit analysis in future assessments and related reports. The Bureau expects that the findings in these reports will inform stakeholders, policy makers, and the general public about developments in the mortgage market and the effects of the rules on consumers.

The issuance of these reports is not the end of the line for the Bureau. The agency is interested in hearing reactions from stakeholders to the reports' findings and conclusions. The Bureau anticipates that continued interaction with and receipt of information from stakeholders about these rules will help inform the Bureau's future policy decisions.

The Ability to Repay and Qualified Mortgage Rule Assessment Report issued is available at:

https://files.consumerfinance.gov/f/documents/cfpb_ability-to-repay-qualified-mortgage_assessment-report.pdf

Source [link](#).

Comment: The Bureau did not announce any further action relative to the ATR/QM Rule but did indicate that reactions from stakeholders to the reports' findings and conclusions would help inform future policy decisions.


2018 HMDA Filing Period (01.04.2019)

The Bureau is pleased to announce that the filing period for HMDA data collected in 2018 opened on January 1, 2019. Financial institutions can access the HMDA Platform used to begin the filing process for data collected in 2018 at <https://ffiec.cfpb.gov/filing/2018/>.

The beta testing period for the 2018 HMDA Platform is closed, and the Bureau would like to thank all of the financial institutions that participated in the beta testing. The objective of the beta platform release was to provide financial institutions with an opportunity to determine whether their sample HMDA data complied with the reporting requirements outlined in the Filing Instructions Guide for HMDA data collected in 2018. The beta period also allowed the Bureau to gain valuable information regarding the performance of the system and provided an opportunity to make any necessary enhancements. All test data uploaded during the beta period has been removed from the system.

All user accounts created during the 2018 beta testing period and during the filing period for data collected in 2017 will be maintained for the 2018 filing period, and users can login to the 2018 HMDA Platform using their existing credentials. We encourage financial institutions to continue providing feedback on their experience using the HMDA Platform and to direct any questions regarding the HMDA Platform to HMDAHelp@cfpb.gov.

Source [link](#).

Bureau Announces Asset-Size Threshold Adjustments Under HMDA (Regulation C) And TILA (Regulation Z) And an Annual Adjustment Under FCRA (12.31.2019) 

The Bureau has announced the asset-size exemption thresholds for depository institutions under Regulation C. The Bureau has also announced the asset-size exemption thresholds for certain creditors under the escrow requirements and small creditor portfolio and balloon-payment qualified mortgage requirements, and the small creditor exemption from the prohibition against balloon-payment high-cost mortgages under Regulation Z. Finally, the Bureau has announced the annual adjustment to the maximum amount consumer reporting agencies may charge consumers for making a file disclosure to a consumer under FCRA.

These adjustments are applicable on January 1, 2019, consistent with relevant statutory or regulatory provisions.

You can access the Regulation C notice at: <http://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/home-mortgage-disclosure-regulation-c-adjustment-asset-size-exemption-threshold/>

You can access the Regulation Z notice at: <http://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/truth-lending-act-regulation-z-adjustment-asset-size-exemption-threshold/>

You can access the FCRA notice at: <https://www.consumerfinance.gov/policy-compliance/rulemaking/final-rules/fair-credit-reporting-act-disclosures/>

Source [link](#).

Consumer Financial Protection Bureau Announces Policy Guidance on Disclosure of Home Mortgage Data (12.21.2019) 

WASHINGTON, D.C. — The Consumer Financial Protection Bureau (Bureau) announced final policy guidance describing the Home Mortgage Disclosure Act (HMDA) data the Bureau intends to make available to the public beginning in 2019, including modifications to protect consumers' privacy.

HMDA requires lenders to collect, report, and publicly disclose loan-level data about their mortgage applications, originations, and purchases. The purposes of HMDA are to provide the public and public officials with sufficient information to enable them to determine whether financial institutions are serving the housing needs of their communities; assist public officials in distributing public-sector investment so as to attract private investment to areas where it is needed; and assist in identifying possible discriminatory lending patterns and enforcing antidiscrimination statutes.

In 2015 the Bureau finalized changes to Regulation C, the CFPB's rule implementing HMDA, updating the quality and type of data that lenders must collect and report. These changes also shifted the responsibility for disclosing loan-level HMDA data from lenders to the HMDA supervisory agencies. The Bureau has stated that it intends to engage in rulemaking to reconsider aspects of the 2015 HMDA rule.

The Bureau has considered whether and how HMDA data should be modified prior to its disclosure to the public, in order to protect applicant and borrower privacy while also fulfilling HMDA's public disclosure purposes. In doing so, the Bureau carefully reviewed public comments received on the proposed policy guidance issued in September 2017. The final policy guidance issued describes the loan-level HMDA data that

the Bureau intends to make available to the public beginning in 2019. The final policy guidance includes important modifications of the data to protect consumers' privacy. For example, the Bureau intends to exclude certain data from the public HMDA data, including the property address and applicant's credit score. The Bureau also intends to disclose certain information with reduced precision, such as by disclosing ranges rather than specific values for an applicant's age, the amount of the loan, and the number of units in the dwelling.

The Bureau has decided that it would be beneficial to conduct a separate notice-and-comment rulemaking to incorporate any modifications of HMDA data into the text of Regulation C. That rulemaking will enable the Bureau to further consider, on the basis of additional comments, what HMDA data will be disclosed in future years. The Bureau intends to commence such a rulemaking in 2019.

The final policy guidance issued is available [here](#).

Source [link](#).

FDIC actions and news

FDIC Issues Final Rule on Reciprocal Deposits and Seeks Comments on Brokered Deposits and Interest Rate Restrictions (12.19.2018)

The Federal Deposit Insurance Corporation (FDIC) took two actions related to brokered deposits. The FDIC adopted a final rule related to the treatment of reciprocal deposits, and it also issued an advance notice of proposed rulemaking (ANPR) related to brokered deposits and the interest rate restrictions.

The final rule implements Section 202 of the Economic Growth, Regulatory Relief, and Consumer Protection Act to exempt certain reciprocal deposits from being considered as brokered deposits for certain insured institutions. The final rule also makes conforming amendments to the FDIC's regulations governing deposit insurance assessments.

Under the reciprocal deposit exception addressed in the final rule, well-capitalized and well-rated institutions are not required to treat reciprocal deposits as brokered deposits up to the lesser of 20 percent of their total liabilities or \$5 billion. Institutions that are not both well capitalized and well rated may also exclude reciprocal deposits from their brokered deposits under certain circumstances.

The final rule will take effect 30 days after publication in the Federal Register.

The FDIC, through the ANPR, is also seeking comments on all aspects of the brokered deposit and interest rate regulations. The ANPR is part of the FDIC's effort to comprehensively review its regulations and policies.

Since the requirements for brokered deposits were put in place, the financial services industry has seen significant changes in technology, business models, and products. In addition, changes to the economic environment have raised a number of issues relating to the interest rate restrictions. The FDIC will carefully consider comments received in response to this ANPR in determining what actions may be warranted.

Comments on the ANPR will be accepted for 90 days from the date of publication in the Federal Register.

Attachments:

[Final Rule Regarding Reciprocal Deposits](#)

[ANPR on Brokered Deposits and Interest Rate Restrictions](#)

Source [link](#).

Comment: The FDIC's current regulations on brokered deposits and interest rate restrictions are set forth at 12 C.F.R. Section 337.6. Those regulations implement Section 29 of the Federal Deposit Insurance Act which restricts an insured depository institution that is less than well capitalized from soliciting or accepting deposits by or through a "deposit broker." It also imposes restrictions on the interest rate that such institutions can pay on deposits.

OCC actions and news

Notice Adjusting Civil Money Penalties for 2019 (01.11.2019)

On December 27, 2018, the Office of the Comptroller of the Currency (OCC) published in the Federal Register the attached notice to adjust the maximum amount of each civil money penalty (CMP) within its jurisdiction pursuant to the Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015 (2015 Adjustment Act). The adjusted maximum penalties became effective as of January 1, 2019, for violations occurring on or after November 2, 2015.

Highlights

The notice updates the inflation-adjusted maximum CMPs that the OCC may impose, using the inflation adjustment required under the 2015 Adjustment Act, as provided by the Office of Management and Budget (OMB) in OMB Memorandum M-19-04 issued on December 14, 2018. This revision does not affect the OCC's discretion to assess a CMP in an amount lower than the maximum allowed.

Source [link](#).

OCC Releases 2019 Schedule of Workshops for Directors and Senior Management of National Community Banks and Federal Savings Associations (01.02.2019)

WASHINGTON — The Office of the Comptroller of the Currency (OCC) announced its 2019 schedule of workshops for board directors and bank management 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 safe and sound operation of community-based financial institutions.

“These workshops help directors of community banks better understand their responsibilities and the risks facing their institutions, so they can continue to meet the financial needs of their communities,” said Comptroller of the Currency Joseph M. Otting.

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

- Building Blocks: Keys to Success for Directors and Senior Management
- Risk Governance: Improving Director Effectiveness
- Compliance Risk: What Directors Need to Know
- Credit Risk: Directors Can Make a Difference
- Operational Risk: Navigating Rapid Changes

The OCC offers the workshops nationwide to directors of national community banks and federal savings associations. Senior management and other key executives of national community banks and federal savings associations supervised by the OCC are also eligible to attend the Building Blocks workshop.

Workshops are limited to 35 participants. Attendees will receive course materials, supervisory publications, and lunch.

Source [link](#).

Federal Reserve actions and news

Federal Reserve Bank of Dallas - Fifth Annual Consumer Compliance Conference. (01.17.2019)

The conference is designed as an annual exchange of ideas with state member banks in the Eleventh Federal Reserve District. The purpose is to help banks navigate through rules and regulations in consumer compliance and enable the Dallas Fed to identify and understand bankers' perspectives on emerging issues.

Take this opportunity to network and increase your compliance knowledge. Mark your calendar and register by following the link below:

[Register Now](#)

Who Should Attend: Compliance staff of state member banks

Location: Federal Reserve Bank of Dallas

When: Tuesday, March 26, 2019

*For more information: Email us at DAL.CCCInfo@dal.frb.org

Registration Deadline: March 15, 2018

Comment: In addition to good information, this is a great networking opportunity.

Beige Book - Summary of Commentary on Current Economic Conditions by Federal Reserve District (01.16.2019)

Commonly known as the Beige Book, this report is published eight times per year. Each Federal Reserve Bank gathers anecdotal information on current economic conditions in its District through reports from Bank and Branch directors and interviews with key business contacts, economists, market experts, and other sources. The Beige Book summarizes this information by District and sector. An overall summary of the twelve district reports is prepared by a designated Federal Reserve Bank on a rotating basis.

Source [link](#).

Federal Reserve Board Launches Article Series on Financial Conditions and Concerns of Consumers And Communities (01.16.2019)

The Federal Reserve Board on Wednesday announced Consumer & Community Context, an article series that features original analysis about the financial conditions and experiences of consumers and communities, including traditionally underserved and economically vulnerable households and neighborhoods.

The goal of the series is to increase public understanding of the financial conditions and concerns of consumers and communities. The series will be published periodically and each issue will have a theme.

"Our objective is to share insights and provide context for the complex economic and financial issues that affect individuals, communities, and the broader economy," said Eric Belsky, director of the Board's Division of Consumer and Community Affairs.

The inaugural issue covers the theme of student loans, and includes articles on the effect that rising student loan debt levels may have on homeownership rates among young adults; and the relationship between the amount of student loan debt and individuals' decisions to live in rural or urban areas. Authors contributing to the series are employees of the Federal Reserve Board or the Federal Reserve System.

Source [link](#).

Comment: Most interesting! In the inaugural issue, the authors observe that although their estimates “suggest that increases in student loan debt are an important factor” in explaining the lower homeownership rates, such increases are “not the central cause of the decline.”

Other federal action and news

CSBS - What Happens to Federal Financial Regulators in a Government Shutdown? (01.18.2019)

The U.S. Government is now currently experiencing the longest shutdown in its history.

Based on funding source and how many “essential employees” are needed, each federal financial regulatory agency is impacted differently.

The shutdown will not directly affect the operations of the federal banking agencies because they are not subject to appropriations. The FDIC and OCC are independently funded via bank assessments. The Federal Reserve System is funded through its market activities, and the CFPB is directly funded by the Federal Reserve.

However, the Financial Crimes Enforcement Network (FinCEN), the SEC, the Department of Housing and Urban Development (HUD), the IRS, the Commodity Futures Trading Commission (CFTC), and the Small Business Administration (SBA) are all subject to appropriations and have significant services rollbacks.

The Washington Post maintains some helpful infographics to understand what services and agencies are impacted by a government shutdown:

[Everything You Need to Know About the Government Shutdown](#)
[Who Gets Sent Home During a Government Shutdown?](#)
[What Closes During a Government Shutdown?](#)

Source [link](#).

Comment: For banks and their customers across the country, FHA, SBA, government backed farm loans have all been halted.

CSBS - Financial Regulations Are a “Regressive Tax” on Small Banks (01.11.2019)

Compliance costs may have dropped in 2017, but community banks still suffer from an inherent competitive disadvantage, according to recent analysis of the CSBS 2018 Community Bank Survey.

Overall annual compliance costs at community banks declined by 13 percent to \$4.6 billion from 2016 to 2017, the national survey shows. But that is still a challenge for many small banks because they do not have the same infrastructure as larger banks to efficiently absorb these costs, according to a research paper by Temple University Professors William C. Dunkelberg and Jonathon A. Scott. The paper is one of a series that takes an in-depth look at the results of the CSBS annual survey, which this year included 521 community banks from 37 states.

Dunkelberg and Scott explain: “Few small banks have their own legal or compliance departments. Compliance often requires incurring additional fixed costs larger than needed -- hiring an additional accountant or computer programmer, for example -- which impairs the bottom line to a larger degree than at larger banks. More importantly, this burden creates a competitive advantage for larger banks that can more easily absorb (utilize) these fixed costs.”

The findings show 38 percent of small banks (under \$100 million) reported that compliance costs were more than 20 percent of their total expenses, whereas only 13 percent of large banks (more than \$800 million) reported a similar burden. Small banks reported most of their compliance costs were spent on salary and data processing, the paper found.

“Compliance uses up valuable and scarce capital and hours of expensive human capital,” the report concluded.

To read the paper, click [here](#).

In addition to regulatory compliance, the annual survey asked questions about trends in small business and other lending, banking services, mergers and acquisitions and management succession.

The survey is released each year at the Community Banking in the 21st Century research and policy conference. To read the full survey, click [here](#).

Source [link](#).

Publications, articles, reports, studies, testimony & speeches

“Are We There Yet?” - The U.S. Economy and Monetary Policy (01.15.2019)

Remarks by Esther L. George, President and Chief Executive Officer, Federal Reserve Bank of Kansas City

Source [link](#).

Comment: Kansas City Fed President Esther George is a very impressive individual. She provides a very easy to follow “where we are in the monetary policy game” assessment in the attached speech. If you wish to expand your understanding of the state of the monetary policy world, it’s worth a 7 page read.”

Chicago Fed Survey of Business Conditions (01.16.2019)

The Chicago Fed Survey of Business Conditions (CFSBC) Activity Index decreased slightly to -4 from -2, suggesting that growth in economic activity remained at a modest pace in late November and December. The CFSBC Manufacturing Activity Index moved down to -16 from +6, while the CFSBC Nonmanufacturing Activity Index moved up to +3 from -5.

- Respondents’ outlooks for the U.S. economy for the next six to 12 months deteriorated markedly, turning pessimistic on balance. Respondents with pessimistic outlooks highlighted increased financial

market volatility; elevated policy uncertainty related to trade negotiations and the government shutdown; and slowing demand for their firms' products. Respondents with optimistic outlooks highlighted good economic data, particularly for the labor market, and growing demand for their firms' products.

- The pace of current hiring slowed, and respondents' expectations for the pace of hiring over the next six to 12 months decreased. Both hiring indexes remained negative.
- The pace of current capital spending edged up, as did respondents' expectations for the pace of capital spending over the next six to 12 months. Both capital spending indexes remained negative.
- The wage cost pressures index decreased, as did the nonwage cost pressures index. Both cost pressures indexes moved into negative territory.

Source [link](#).

Federal Reserve Bank of Kansas City Announces Third Quarter Small Business Lending Survey Results (12.21.2019)

KANSAS CITY, MISSOURI - The Federal Reserve Bank of Kansas City released the results from the Third Quarter 2018 national Small Business Lending Survey. The quarterly survey of U.S. banks provides data on lending activity and terms for small businesses, a critical source of employment and economic growth for the country.

Complete results of the survey are now available from the Kansas City Fed's website.

Key findings include:

- Small business C&I loan balances grew almost 0.9 percent, outpacing the growth of total loans and C&I loans.
- Banks tightened most credit terms.
- Large institutions reported growth of 1.4 percent in total outstanding small business C&I loans.
- Interest rates on new small business C&I loans continued to rise.
- Overall loan demand remained stable.

The Federal Reserve Bank of Kansas City's national quarterly Small Business Lending Survey (FR 2028D) includes quantitative and qualitative data on credit market conditions for bank lending to small businesses across the country. The survey results provide detailed information on commercial banks' lending activity and terms and offer a snapshot of small businesses' access to credit.

Source [link](#).

Federal Reserve Payments Study Supplement Shows Accelerated Electronic Payments Growth (12.20.2019)

Growth in card payments has accelerated, according to new electronic payments data collected by the Federal Reserve. Card payments increased 10.1 percent by number and 8.4 percent by value from 2016 to 2017, each larger than the increases of 7.8 percent by number and 6.3 percent by value from 2015 to 2016. Remote payments claimed a greater share of total general-purpose card transactions over the 2016 to 2017 period, and the number of in-person chip-authenticated card payments also posted substantial gains. Check payments and automated teller machine (ATM) withdrawals declined by number yet increased in value.

The annual supplementary data, which were collected between the triennial Federal Reserve Payments Studies (FRPS), show that the sum of credit card, non-prepaid debit card, and prepaid debit card payments increased 11.3 billion from 112.2 billion to 123.5 billion payments by number and increased \$500 billion from \$6 trillion to \$6.5 trillion by value from 2016 to 2017. The increase in the number of card payments in 2017

was boosted by continued strong growth in the number of card payments made remotely, including for shopping and bill paying. The number of in-person chip-authenticated card payments also recorded a noteworthy gain in 2017, increasing to 41.6 percent of all in-person general-purpose card payments. For the first time, chip-authenticated payments captured more than half of the value of in-person general-purpose card payments.

Key findings of the study include:

- Card payments continued to show robust growth from 2016 to 2017. At 10 percent, credit cards had the highest growth rate by value. Debit card payments, which made up 66.9 percent of card payments in 2017 by number, grew by 6.5 percent including 7.0 percent of increase in non-prepaid card payments and 3 percent of increase in prepaid debit card payments. In a departure from previous reporting periods, a surge was seen in the number of prepaid and non-prepaid debit card payments relative to credit card payments.
- Remote general-purpose card payments increased 22.8 percent by number from 2016 to 2017, compared with in-person payments, which grew just 7.2 percent. Over the same period, the value of remote payments increased 14.8 percent, compared with in-person payments, which increased by just 4.4 percent.
- Network automated clearinghouse (ACH) payments grew faster, with network ACH payments increasing 5.7 percent by number and 6.9 percent by value from 2016 to 2017. The growth for network ACH payments was 5.3 percent by number and 5.1 percent by value from 2015 to 2016.
- Check payments, based on a survey of the largest U.S. depository and financial institutions, showed a faster decline of 4.8 percent by number from 2016 to 2017 compared to a decline of 3.6 percent from 2015 to 2016. The value of check payments increased 7.5 percent from 2016 to 2017 after decreasing 3.7 percent from 2015 to 2016.
- ATM withdrawals, based on a survey of the largest U.S. depository and financial institutions, have declined by number and increased by value in all study periods from 2012 through 2017. From 2016 to 2017, ATM withdrawals fell 2.8 percent by number and rose 0.5 percent by value.

The Federal Reserve Board and the Federal Reserve Bank of Atlanta have reported on national aggregate volumes and trends in noncash payments in the United States since 2001. The triennial reports and the annual supplements are available at: www.federalreserve.gov/paymentsystems/fr-payments-study.htm

Source [link](#).

Comment: It's worth noting that in December, the Fed was seeking comment on the initiative for a 'Real Time Gross Settlement (RTGS) plan for settlement 24/7/365.

Education Debt Owed by Older Families in the 2016 Survey of Consumer Finances (12.21.2018)

The amount of education debt held by U.S. families has increased dramatically over the past fifteen years. New data from the triennial Survey of Consumer Finances (SCF) shows a continued growth in education debt over the past three years.¹ Between the 2013 and 2016 surveys, aggregate education debt increased 36 percent to \$964.3 billion, and increased by more than 400 percent since the 2001 survey.² Because recent college attendees carry much higher debt balances than students in the past, the impact of education debt on young families' economic outcomes is often noted as a concern (Dettling and Hsu, 2014; Mezza, Ringo, Sherlund, and Sommer, 2016).

The largest increase over this time is, surprisingly, balances owed by older families. Now, much of the education debt in the SCF currently resides in households headed by person 40 years or older. These families

are the focus of this note. Such families owe education debt from their own educational endeavors and may also have borrowed to finance the education of a child. Additionally, in the SCF, some of this debt is owed by a financially dependent adult child that resides in the parent's household. We first provide an overview of education debt in the SCF, and then focus on the circumstances of education debt owed by older families. We look at vintage of debt, degree completion, and financial fragility of older households with education debt.

Source [link](#).

Comment: The median family with student loan debt now owes \$19,000 on those loans, according to the survey, up from a median balance of just \$5,600 in 2016 dollars in 1989 according to the Fed's [Survey of Consumer Finances](#).

Selected federal rules – proposed

Proposed rules are included only when community banks January want to comment. Date posted January not be the same as the Federal Register Date.

Posted Date	SUMMARY OF PROPOSED RULE
12.21.2018	Proposed Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds - The OCC, Board, FDIC, SEC, and CFTC (individually, an Agency, and collectively, the Agencies) are requesting comment on a proposal to amend the regulations implementing section 13 of the Bank Holding Company Act (BHC Act) in a manner consistent with the statutory amendments made pursuant to sections 203 and 204 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. Specifically, the statutory amendments (1) exclude from section 13's restrictions certain firms that have total consolidated assets equal to \$10 billion or less and total trading assets and liabilities equal to five percent or less of total consolidated assets and (2) amend the restrictions applicable to the naming of a hedge fund or private equity fund to permit an investment adviser that is a banking entity to share a name with the fund under certain circumstances. Comments must be received on or before 30 days after publication in the Federal Register. Comments on the Paperwork Reduction Act burden estimates must be received on or before 60 days after publication in the Federal Register.
12.19.2018	Unsafe and Unsound Banking Practices [Brokered Deposits] - The Federal Deposit Insurance Corporation (FDIC) is undertaking a comprehensive review of the regulatory approach to brokered deposits and the interest rate caps applicable to banks that are less than well capitalized. Since the statutory brokered deposit restrictions were put in place in 1989, and amended in 1991, the financial services industry has seen significant changes in technology, business models, and products. In addition, changes to the economic environment have raised a number of issues relating to the interest rate restrictions. A key part of the FDIC's review is to seek public comment through this Advance Notice of Proposed Rulemaking (Notice) on the impact of these changes. The FDIC will carefully consider comments received in response to this Notice in determining what actions maybe warranted. Comments must be received by the FDIC no later than 90 days after publication in the Federal Register.
11.21.2018	Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations - The Office of the Comptroller of the Currency (OCC), the Board of Governors of the Federal Reserve System (Board), and the Federal Deposit Insurance Corporation (FDIC) are inviting public comment on a notice of proposed rulemaking (proposal) that would provide for a simple measure of capital adequacy for certain community banking organizations, consistent with section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. Under the proposal, most depository institutions and depository institution holding companies that have less than \$10 billion in total consolidated assets, that meet risk-based qualifying criteria, and that have a community bank leverage ratio (as defined in the proposal) of greater than 9 percent would be eligible to opt into a community bank leverage ratio framework. Such banking organizations that elect to use the community bank leverage ratio and that maintain a community bank leverage ratio of greater than 9 percent would not be subject to other risk-based and leverage capital requirements and would be considered to have met the well capitalized ratio requirements for purposes of section 38 of the Federal Deposit Insurance Act and regulations implementing that section, as applicable, and the generally applicable capital requirements under the agencies' capital rule. Comments are due 60 days after publication in the Federal Register.
11.21.2018	Availability of Funds and Collection of Checks (Regulation CC) - The Board and the Bureau (Agencies) are proposing amendments to Regulation CC, which implements the Expedited Funds Availability Act (EFA Act) (2019 Proposal), and are also providing an additional opportunity for public comment on certain amendments to Regulation CC that the Board proposed in

2011 (2011 Funds Availability Proposal). In the 2019 Proposal, the Agencies are proposing a calculation methodology for implementing a statutory requirement to adjust the dollar amounts in the EFA Act every five years by the aggregate annual percentage increase in the Consumer Price Index for Wage Earners and Clerical Workers (CPIW) rounded to the nearest multiple of \$25. The 2019 Proposal would also implement the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amendments to the EFA Act, which include extending coverage to American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam, and would make certain other technical amendments. With regard to reopening comments on the 2011 Funds Availability Proposal, the Board published proposed amendments to Regulation CC in the Federal Register on March 25, 2011. As discussed below, the Board and the Bureau now have joint rulemaking authority with respect to subpart B of Regulation CC, related definitions, and appendices of the amendments that the Board proposed on that date. The Board and the Bureau are reopening the comment period for the 2011 Funds Availability Proposal. Comments are due by February 2, 2019.

11.20.2018 [Real Estate Appraisals](#) - The OCC, Board, and FDIC (collectively, the agencies) are inviting comment on a proposed rule to amend the agencies' regulations requiring appraisals for certain real estate related. The proposed rule would increase the threshold level at or below which appraisals would not be required for residential real estate-related transactions from \$250,000 to \$400,000. Consistent with the requirement for other transactions that fall below applicable thresholds, regulated institutions would be required to obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices. The proposed rule would make conforming changes to add transactions secured by residential property in rural areas that have been exempted from the agencies' appraisal requirement pursuant to the Economic Growth, Regulatory Relief and Consumer Protection Act to the list of exempt transactions. The proposed rule would require evaluations for these exempt transactions. Pursuant to the Dodd-Frank Wall Street Reform and Consumer Protection Act, the proposed rule would amend the agencies' appraisal regulations to require regulated institutions to subject appraisals for federally related transactions to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice. Comments are due by February 5, 2019.

Selected federal rules – upcoming effective dates

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

**EFFECTIVE
DATE:**

SUMMARY OF FINAL RULE:

xx.xx.2019 [Limited Exception for a Capped Amount of Reciprocal Deposits from Treatment as Brokered Deposits](#) - The FDIC is amending its regulations that implement brokered deposits and interest rate restrictions to conform with recent changes to section 29 of the Federal Deposit Insurance Act made by section 202 of the Economic Growth, Regulatory Relief, and Consumer Protection Act related to reciprocal deposits, which took effect on May 24, 2018. The FDIC is also making conforming amendments to the FDIC's regulations governing deposit insurance assessments. This rule will be effective 30 days after publication in the Federal Register.

01.01.2019 [Regulatory Capital Rules: Retention of Certain Existing Transition Provisions for Banking Organizations That Are Not Subject to Advanced Approaches Capital Rules](#). The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the agencies) are adopting a final rule to extend the regulatory capital treatment applicable during 2017 under the regulatory capital rules (capital rules) for certain items. These items include regulatory capital deductions, risk weights, and certain minority interest limitations. The relief provided under the final rule applies to banking organizations that are not subject to the capital rules' advanced approaches (non-advanced approaches banking organizations). Specifically, for these banking organizations, the final rule extends the current regulatory capital treatment of mortgage servicing assets, deferred tax assets arising from temporary differences that could not be realized through net operating loss carrybacks, significant investments in the capital of unconsolidated financial institutions in the form of common stock, non-significant investments in the capital of unconsolidated financial institutions, significant investments in the capital of unconsolidated financial institutions that are not in the form of common stock, and common equity tier 1 minority interest, tier 1 minority interest, and total capital minority interest exceeding the capital rules' minority interest limitations. Under the final rule, advanced approaches banking organizations continue to be subject to the transition provisions established by the capital rules for the above capital items. Therefore, for advanced approaches banking organizations, their transition schedule is unchanged, and advanced approaches banking organizations are required to apply the capital rules' fully phased-in treatment for these capital items beginning January 1, 2019.

01.16.2019 [Payday, Vehicle Title, and Certain High-Cost Installment Loans](#) - The Bureau of Consumer Financial Protection (Bureau or CFPB) is issuing this final rule establishing regulations creating consumer protections for certain consumer credit products and the official interpretations to the rule. First, the rule identifies it as an unfair and abusive practice for a lender to make covered short-term or longer-term balloon-payment loans, including payday and vehicle title loans, without reasonably determining that consumers have the ability to repay the loans according to their terms. The rule exempts certain loans from the

underwriting criteria prescribed in the rule if they have specific consumer protections. Second, for the same set of loans along with certain other high-cost longer-term loans, the rule identifies it as an unfair and abusive practice to make attempts to withdraw payment from consumers' accounts after two consecutive payment attempts have failed, unless the consumer provides a new and specific authorization to do so. Finally, the rule prescribes notices to consumers before attempting to withdraw payments from their account, as well as processes and criteria for registration of information systems, for requirements to furnish and obtain information from them, and for compliance programs and record retention. The rule prohibits evasions and operates as a floor leaving State and local jurisdictions to adopt further regulatory measures (whether a usury limit or other protections) as appropriate to protect consumers. Effective Date: This regulation is effective January 16, 2019. Compliance Date: Sections 1041.2 through 1041.10, 1041.12, and 1041.13 have a compliance date of August 19, 2019. A federal court granted the Bureau of Consumer Financial Protection's request to delay the effective date of its rule on small-dollar loans. The decision delays the August 2019 compliance date.

04.01.2019 [Three-Year Regulatory Capital Phase in for New Current Expected Credit Losses \(CECL\)](#) - The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the agencies) are adopting a final rule to address changes to credit loss accounting under U.S. generally accepted accounting principles, including banking organizations' implementation of the current expected credit losses methodology (CECL). The final rule provides banking organizations the option to phase in over a three-year period the day-one adverse effects on regulatory capital that may result from the adoption of the new accounting standard. In addition, the final rule revises the agencies' regulatory capital rule, stress testing rules, and regulatory disclosure requirements to reflect CECL, and makes conforming amendments to other regulations that reference credit loss allowances.

04.01.2019 [Prepaid Accounts under the Electronic Fund Transfer Act \(Regulation E\) and the Truth In Lending Act \(Regulation Z\)](#). The BFCP is issuing this final rule to create comprehensive consumer protections for prepaid accounts under Regulation E, which implements the Electronic Fund Transfer Act; Regulation Z, which implements the Truth in Lending Act; and the official interpretations to those regulations. The final rule modifies general Regulation E requirements to create tailored provisions governing disclosures, limited liability and error resolution, and periodic statements, and adds new requirements regarding the posting of account agreements. Additionally, the final rule regulates overdraft credit features that January be offered in conjunction with prepaid accounts. Subject to certain exceptions, such credit features will be covered under Regulation Z where the credit feature is offered by the prepaid account issuer, its affiliate, or its business partner and credit can be accessed in the course of a transaction conducted with a prepaid card. For additional information, see the BFCP's [prepaid rule implementation page](#). The 2019 Prepaid Amendments extend the effective date of the 2016 Prepaid Rule to April 1, 2019. All provisions of the Prepaid Rule will become effective on April 1, 2019.

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.
CFPB	Consumer Financial Protection Bureau
CARD Act	Credit Card Accountability Responsibility and Disclosure Act of 2009
CFR	Code of Federal Regulations . Codification of rules and regulations of federal agencies.
CRA	Community Reinvestment Act . This Act is designed to encourage loans in all segments of communities.
CRE	Commercial Real Estate
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.
Dodd-Frank Act	The Dodd-Frank Wall Street Reform and Consumer Protection Act
DOJ	Department of Justice
FDIC	Federal Deposit Insurance Corporation
EFTA	Electronic Fund Transfer Act
Federal bank regulatory agencies	FDIC, FRB, and OCC
Federal financial institution regulatory agencies	BFCP, FDIC, FRB, NCUA, and OCC
FEMA	Federal Emergency Management Agency

FFIEC	Federal Financial Institutions Examination Council
FHFA	Federal Housing Finance Agency
FHA	Federal Housing Administration
FinCEN	Financial Crime Enforcement Network
FR	Federal Register . U.S. government daily publication that contains proposed and final administrative regulations of federal agencies.
FRB, Fed or Federal Reserve	Federal Reserve Board
FSOC	Financial Stability Oversight Council
FTC	Federal Trade Commission
GAO	Government Accountability Office
HARP	Home Affordable Refinance Program
HAMP	Home Affordable Modification Program
HMDA	Home Mortgage Disclosure Act
HOEPA	Home Ownership and Equity Protections Act of 1994
HPML	Higher Priced Mortgage Loan
HUD	U.S. Department of Housing and Urban Development
IRS	Internal Revenue Service
MLO	Mortgage Loan Originator
MOU	Memorandum of Understanding

NFIP	National Flood Insurance Program . U.S. government program to allow the purchase of flood insurance from the government.
NMLS	National Mortgage Licensing System
OCC	Office of the Comptroller of the Currency
OFAC	Office of Foreign Asset Control
OREO	Other Real Estate Owned
QRM	Qualified Residential Mortgage
Reg. B	Equal Credit Opportunity
Reg. C	Home Mortgage Disclosure
Reg. DD	Truth in Savings
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
Reg. Z	Truth in Lending
RESPA	Real Estate Settlement Procedures Act
SAR	Suspicious Activity Report – Report financial institutions file with the U.S. government (FinCEN) regarding activity that January be criminal in nature.
SDN	Specially Designated National
TILA	Truth in Lending Act
TIN	Tax Identification Number
Treasury	U.S. Department of Treasury

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is provided with the understanding that the publisher is not engaged in the rendering of legal, accounting or other professional advice - from a Declaration of Principles adopted by the American Bar Association and a Committee of Publishers and Associations.