

Regulatory and Legislative Recap
May 2019

FINAL REGULATIONS/RULES

Effective Date	Regulation	Citation	Summary
07/01/2019	Covered Savings Associations (OCC)	84 FR 23991	The OCC is issuing a final rule to implement a new section of the Home Owners' Loan Act (HOLA). The Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amended HOLA to add a new section that allows a Federal savings association with total consolidated assets equal to or less than \$20 billion, as reported by the association to the Comptroller as of December 31, 2017, to elect to operate as a covered savings association. A covered savings association has the same rights and privileges as a national bank and is subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations as a national bank. A covered savings association retains its Federal savings association charter and existing governance framework. The new section of HOLA requires the OCC to issue rules that, among other things, establish streamlined standards and procedures for elections to operate as covered savings associations and clarify requirements for the treatment of covered savings associations.

FinCEN extended its [Geographic Targeting Order](#), which requires title insurance companies to, in specific situations, identify the natural persons behind legal entities used in purchases of residential real estate performed without a bank loan or similar financing. King County, in Washington, remains on the Order's requirements.

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PROPOSED REGULATIONS

Comments Due	Regulation	Citation	Summary
07/29/2019	Public Unit and Nonmember Shares (NCUA)	84 FR 25018	The NCUA is proposing to amend the NCUA's public unit and nonmember share rule to allow Federal credit unions to receive public unit and nonmember shares up to 50 percent of the credit union's paid-in and unimpaired capital and surplus less any public unit and nonmember shares
05/14/2019	Control and Divestiture Proceedings (FDIC)	84 FR 21634	The Federal Reserve issued a proposed rule that would revise its regulations related to determinations of whether a company has the ability to exercise a controlling influence over another company for purposes of the Bank Holding Company Act or the Home Owners' Loan Act.
06/21/2019	Resolution Plans Required (Federal Reserve & FDIC)	84 FR 21600	The Federal Reserve and Federal Deposit Insurance Corporation issued a proposed rule to amend and restate the jointly issued regulation implementing the resolution planning requirements of section 165(d) of the Dodd-Frank Act.
08/19/2019	Debt Collection Practices Regulation F (CFPB)	84 FR 23274	The proposal sets limits on the number of calls debt collectors may place on a weekly basis; clarifies how collectors may communicate lawfully using current technologies, such as voicemails, emails, and text messages; and requires collectors to provide additional information to consumers to help them identify debts and respond to collection attempts. In addition, the proposal would require the use of a new consumer-facing disclosure and response form and prohibit suits and threats on time-barred debts. Fast Facts summary of the proposed rule Electronic disclosure options
07/01/2019	Overdraft Rule Review Pursuant to the Regulatory Flexibility Act Regulation E (CFPB)	84 FR 21729	The Bureau of Consumer Financial Protection (Bureau) is conducting a review of the Overdraft Rule consistent with section 610 of the Regulatory Flexibility Act. As part of this review, the Bureau is seeking comment on the economic impact of the Overdraft Rule on small entities. These comments may assist the Bureau in determining whether the Overdraft Rule should be continued without change, or amended or rescinded to minimize any significant economic impact of the rules upon a substantial number of such small entities, consistent with the stated objectives of applicable statutes.
06/12/2019	Home Mortgage Disclosure Act Regulation C (CFPB)	84 FR 20972	The Bureau of Consumer Financial Protection (Bureau) is proposing two alternatives to amend Regulation C to increase the threshold for reporting data about closed-end mortgage loans so that institutions originating fewer than either 50 closed-end mortgage loans, or alternatively 100 closed-end mortgage loans, in either of the two preceding calendar years would not have to report such data as of January 1, 2020. The proposed rule would also adjust the threshold for reporting data about open-end lines of credit by extending to January 1, 2022, the current

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			temporary threshold of 500 open-end lines of credit and setting the threshold at 200 open-end lines of credit upon the expiration of the proposed extension of the temporary threshold. The Bureau is also proposing to incorporate into Regulation C the interpretations and procedures from the interpretive and procedural rule that the Bureau issued on August 31, 2018, and to implement further section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act.
07/08/2019	Home Mortgage Disclosure Act Regulation C (CFPB)	84 FR 20049	The Bureau of Consumer Financial Protection (Bureau) is issuing this Advance Notice of Proposed Rulemaking (ANPR) to solicit comments relating to whether to make changes to the data points that the Bureau's October 2015 final rule implementing the Home Mortgage Disclosure Act (HMDA) added to Regulation C or revised to require additional information. Additionally, the Bureau is issuing this ANPR to solicit comments relating to the requirement that institutions report certain business- or commercial-purpose transactions under Regulation C.

July 1, 2019 – [Private Flood Insurance](#)

July 1, 2019 – CECL Effective Date

August 19, 2019 – [ATR for short term & longer term balloon payment loans](#)

February 1, 2020 (permissible 07/01/2019) Uniform Residential Loan Application

RESOURCES/GUIDANCE

Guidance	Summary
TILA-RESPA Integrated Disclosure FAQs (CFPB)	The CFPB released two frequently asked questions on disclosing construction loans.
Report on the Economic Well-Being of U.S. Households (Federal Reserve)	The Federal Reserve Board's latest Report on the Economic Well-Being of U.S. Households found that most measures of economic well-being and financial resilience in 2018 were similar to, or slightly better than, those in 2017. The report draws from the Board's sixth annual Survey of Household Economics and Decisionmaking (SHED), which was conducted in October and November 2018 and examined the financial lives of U.S. adults and their families. Respondents described their experiences on a wide range of topics including income, employment, dealing with expenses, banking and credit, housing, education, and retirement. The responses were weighted to be nationally representative of adults, aged 18 and over, in the United States.
Spring 2019 Rulemaking Agenda (CFPB)	The CFPB announced updates to its rulemaking agenda for 2019. Included, the CFPB expects to issue a proposed rule in December on the public disclosure of Home Mortgage Disclosure Act data. It also intends to resume pre-rulemaking activities in January 2020 on implementing Section 1071 of the Dodd-Frank Act, which requires the CFPB to collect data on small business lending. In the nearer term, they expect to finalize in June an extension for the compliance date of the underwriting requirements in its 2017 payday rule. The CFPB is also continuing work to implement the S. 2155 regulatory reform law.

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May 2019

Private Flood Insurance Rule Teleconference FIL-27-2019 (FDIC)	The FDIC's Division of Depositor and Consumer Protection (DCP) will conduct an interagency webinar scheduled for Tuesday, June 18, 2019, that will focus on the recently issued interagency final rule on private flood insurance. The session is free, but registration is required. This is a continuing series of events for bankers, including teleconferences and webinars, to update bank management and staff on important bank regulatory and emerging issues in the consumer compliance and protection area.
Flood Insurance Alternatives 19-RA-01 (NCUA)	The NCUA released 19-RA-01 on the flood insurance alternatives amending part 760. Effective July 1, credit unions must accept private flood insurance for applicable loans as defined in the Biggert-Waters Act, in addition to policies available under the National Flood Insurance Program.
Financial Institution Diversity Video FIL-26-2019 (FDIC)	The FDIC's Office of Minority and Women Inclusion (OMWI) prepared a video that is available on the FDIC YouTube Channel. In the "Financial Institution Diversity" video, OMWI Director Saul Schwartz describes the FDIC's Financial Institution Diversity Program. Financial institutions that the FDIC regulates are encouraged to conduct annual self-assessments of their diversity policies and practices as outlined in the Interagency Policy Statement Establishing Joint Standards for Assessing the Diversity Policies and Practices of Entities Regulated by the Agencies (Policy Statement).
Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies (CVC) FIN-2019-G001 (FinCEN)	FinCEN issued guidance on the Application of FinCEN's Regulations to Certain Business Models Involving Convertible Virtual Currencies (CVC). The guidance is in response to questions raised by financial institutions, law enforcement, and regulators concerning the regulatory treatment of multiple variations of businesses dealing in CVCs.
Advisory on illicit Activity Involving Convertible Virtual Currency (FinCEN)	FinCEN also has issued an Advisory on Illicit Activity Involving Convertible Virtual Currency to assist financial institutions in identifying and reporting suspicious activity related to criminal exploitation of CVCs for money laundering, sanctions evasion, and other illicit financing purposes. The advisory highlights prominent typologies, associated "red flags," and identifies information that would be most valuable to law enforcement if contained in suspicious activity reports.
BANK SUPERVISION Regulators Improved Supervision of Management Activities but Additional Steps Needed (GAO)	This report examined (1) how consistent regulators' revised policies and procedures are with leading risk-management practices, (2) how they applied examination policies and procedures, and (3) trends in supervisory concern data since 2012 and how regulators tracked such data. GAO compared regulators' policies and procedures for oversight against leading practices; compared documents from selected bank examinations for 2014–2016 against regulator's risk-management examination procedures; reviewed aggregate supervisory concern data for 2012–2016; and interviewed regulators and industry representatives. GAO recommends that FDIC and the Federal Reserve improve information in written communication of supervisory concerns; FDIC improve recording of supervisory concern data; and the Federal Reserve update guidelines for escalating supervisory concerns. FDIC disagreed with the first recommendation, stating its policies address the issue, but GAO found clarification is needed. FDIC agreed with the second recommendation. The Federal Reserve neither agreed nor disagreed with the recommendations.
Framework for OFAC Compliance	On May 2, the Office of Foreign Assets Control published A Framework for OFAC Compliance Commitments. The Framework includes an expected Sanctions Compliance Program (SCP) that institutions should consider when developing their own risk based

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Commitments (OFAC)	OFAC compliance program. See our blog post here .
Comptroller's Handbook RESPA Updates (OCC)	The OCC updated the RESPA booklet of the Comptroller's Handbook to reflect updates to Regulation X made by the CFPB in recent years, including (i) the establishment and implementation of a definition of "successor in interest;" (ii) compliance with certain servicing requirements when a person is a debtor in bankruptcy; and (iii) clarifications and revisions to the provisions regarding force-placed insurance notices, policy and procedure requirements, and early intervention and loss mitigation requirements.



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Washington State Legislature

The Legislature convened on January 14, 2019, with the last day of regular session of April 28, 2019. Upon first glance, we identified the following bills that may impact financial institutions -

Status as of 06/03/2019		
<u>SB 5641</u>	Adopting the 2018 uniform law commission amendments to the uniform law on notarial acts PASSED – EFFECTIVE 10/01/2020 Adopts the 2018 amendments, by the uniform law commission, to the uniform law on notarial acts regarding electronic notarial acts by remotely located individuals.	PASSED EFFECTIVE 10/01/2020
<u>HB 1001</u>	Service Contract Providers PASSED – EFFECTIVE 07/28/2019 Addresses service contract providers and protection product guarantee provisions regarding: (1) A provider's net worth threshold, ability to pay its debts, and the use of generally accepted accounting standards in regard to unearned contract fees or expected contract claims; and (2) The authority of the insurance commissioner to take action against a provider.	PASSED EFFECTIVE 07/28/2019
<u>SHB 1066</u>	Requiring debt collection complaints to be filed prior to service of summons and complaint Requires that debt collection complaints be filed before service of the summons and complaint on defendants to ensure that defendants: (1) Understand that it is an existing court case; (2) Are informed of the case number; and (3) Receive adequate notice and a reasonable opportunity to respond and be heard to avoid default judgment. Prohibits a licensee or employee of a licensee from serving a debtor with a summons and complaint unless the summons and complaint have been filed with the court and bear the case number assigned by the court	PASSED EFFECTIVE 07/28/2019
<u>SHB 1071</u>	Protecting personal information Addresses personal information and the breach of security systems.	PASSED EFFECTIVE 03/01/2020
<u>E2SHB 1105</u>	Protecting taxpayers from home foreclosure Modifies home foreclosure provisions regarding the protection of taxpayers. Creates the counselor referral hotline account.	PASSED EFFECTIVE 01/01/2020

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May 2019

SB 5107	Addressing trust institutions Revises the Washington trust institutions act. See our blog post here .	PASSED EFFECTIVE 07/28/19
SSB 5278	Financial institutions are directed to list a phone number for cardholders and merchants to report suspected incidents in which payment cards are used fraudulently or have been stolen. Financial institutions must have employees or contractors available during business hours to receive phone calls and provide assistance to cardholders that suspect fraud or that their cards have been stolen.	PASSED EFFECTIVE 07/28/19
HB 1247	<p>Concerning the Washington State Credit Union Act –</p> <ul style="list-style-type: none"> • Eliminates the requirement for annual and special meetings of a state-chartered credit union to be held at a designated place. • Requires verification of member accounts at least every two years (rather than the current once a year requirement) • Allows membership to include groups situated fully or partially outside of the state. • Provides state-chartered credit unions with all powers and authorities of out-of-state credit unions, except membership. • Allows state-chartered credit unions to invest in additional types of funds. 	PASSED EFFECTIVE 07/28/2019

Oregon State Legislature

The Oregon Legislative Session started January 22, 2019.

Status as of 06/03/2019		
HB2426	Permits credit unions to prescribe terms of executive officers in bylaws. Changes threshold date to January 1, 2019, from January 1, 2017, for exercise by state credit unions of powers available to federal credit unions without Director of Department of Consumer and Business Services approval. Modifies laws relating to meetings of members of credit unions.	PASSED EFFECTIVE 01/01/2020
HB2273	Permits business to communicate with owner by electronic mail regarding abandoned securities. Removes exception to abandonment presumption for securities whose dividends automatically reinvest.	In House Committee
HB2341	Makes unlawful employment practice for employer to deny	PASSED

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May 2019

	reasonable accommodation to known limitations related to pregnancy, childbirth or related medical condition or to take certain actions related to reasonable accommodations to known limitations related to pregnancy, childbirth or related medical condition. Requires employer to post notice to employees of provisions of law prohibiting employment discrimination because of pregnancy and protections provided under Act. Requires employer to provide copy of notice to employees at certain times. Requires Commissioner of Bureau of Labor and Industries to adopt rules to establish training and outreach to inform employers and employees of rights and protections related to pregnancy-related employment discrimination and reasonable accommodations available for pregnancy, childbirth and related medical conditions.	EFFECTIVE 01/01/2020
HB2740	Establishes Oregon Industrial Hemp Commission. Aligns state definition of "industrial hemp" with federal definition. Takes effect on 91st day following adjournment sine die.	In House Committee
HB2459	Provides procedure for certain persons that hold interest in real property to request and obtain lien information statement that shows amounts necessary to satisfy encumbrance against real property from other person that holds encumbrance. Requires encumbrance holder to respond to request for lien information statement within 30 days after receiving request. Permits encumbrance holder to require evidence that person requesting lien information statement is authorized recipient. Specifies model form for request and information that lien information statement must include. Provides remedies for encumbrance holder's failure to provide lien information statement or to postpone action or proceeding to enforce encumbrance to allow reasonable time for authorized recipient to satisfy encumbrance. Permits authorized recipient to treat lien information statement as payoff statement for purposes of satisfying obligation that encumbrance secures.	Passed House In Senate Committee
HB2411A	Allows financial institutions, after obtaining person's permission, to swipe person's driver license or identification card for purpose of establishing or maintaining contract or account.	In House Committee
SB361	Modifies prudent investor rule to allow trustee to consider environmental, social and governance factors of investments when making investment decisions.	Passed Senate In House Committee
HB2588	Requires certain persons that service student loans in this state to obtain or renew license. Specifies license application and renewal procedures and required fees. Prescribes duties of licensee and requires licensee to maintain specified	In House Committee

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	liquidity, operating reserves and tangible net worth. Prescribes civil penalty against person that engages in business as student loan servicer without license. Permits Director of Department of Consumer and Business Services to participate in multistate examinations under specified circumstances. Becomes operative January 1, 2020. Declares emergency, effective on passage.	
HB2089	Prohibits title loan lender and payday loan lender from making loan to consumer until seven days after consumer has fully repaid outstanding title loan or payday loan. Becomes operative on January 1, 2020. Takes effect on 91st day following adjournment sine die.	PASSED EFFECTIVE 01/01/2020
SB109	Specifies that certain documents prepared by or for internal use of financial institutions are not real estate appraisal activity requiring preparer of document to carry real estate appraiser certification, license or registration.	PASSED EFFECTIVE 01/01/2020
HB2312	Requires seller of property to disclose whether property is identified by FEMA as Special Flood Hazard Area or whether flood insurance is required by local ordinance or in order to obtain federally regulated loan.	Passed House / In Senate Committee

COMPLIANCE SERVICES GROUP

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May 2019

Jim will be out of the office June 12 – 21, and request response times may be longer than normal. Requests will still be monitored by Ali and John.

The National Flood Insurance (NFIP), which was set to expire May 31, has been extended until June 14, 2019. Actions are in the works to extend it further.

[CFPB Spring Rulemaking Agenda](#)



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