

Regulatory and Legislative Recap
October 2019

FINAL REGULATIONS/RULES

Effective Date	Regulation	Citation	Summary
01/29/2020	Public Unit & Nonmember Shares (NCUA)	84 FR 58306	The NCUA is amending its 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 net amount of paid-in and unimpaired capital and surplus less any public unit and nonmember shares. This final rule also makes a conforming change to the NCUA's regulations that apply the public unit and nonmember share limit to all federally insured credit unions.
01/06/2020	Supervisory Committee Audits and Verifications (NCUA)	84 FR 53303	The NCUA is amending its regulations governing the responsibilities of a federally insured credit union to obtain an annual supervisory committee audit of the credit union. The final rule implements recommendations outlined in the agency's Regulatory Reform Task Force's Regulatory Reform Agenda and will provide additional flexibility to FICUs. Specifically, the Board is: Replacing the Supervisory Committee Guide with a simplified appendix to the part; eliminating two audit types that FICUs seldom use; and eliminating a specific deadline for outside, compensated persons to deliver written audit reports to FICUs.
01/02/2020	Federal Credit Union Bylaws (NCUA)	84 FR 53278	The NCUA Board is issuing a final rule to update, clarify, and simplify the federal credit union bylaws. The final rule updates and conforms the FCU Bylaws to legal opinions issued by the NCUA's Office of General Counsel and provides greater flexibility to federal credit unions. The final rule also makes other changes that are designed to remove outdated or obsolete provisions.
12/02/2019	Payday Alternative Loans (NCUA)	84 FR 51942	The NCUA Board is issuing a final rule (referred to as the PALs II rule) to allow federal credit unions to offer additional payday alternative loans (PALs) to their members. The final rule does not replace the NCUA's current PALs rule (referred to as the PALs I rule). Rather, the PALs II rule grants FCUs additional flexibility to offer their members meaningful alternatives to traditional payday loans while maintaining many of the key structural safeguards of the PALs I rule. (See here for a high-level summary/comparison between PALs I & PALs II)
01/01/2022	HMDA HELOC Reporting Regulation C (CFPB)	84 FR 57946	The CFPB issued a final rule extending the current temporary threshold of 500 open-end lines of credit under the HMDA rules for reporting data to January 1, 2022. [Blog Post]
12/31/2019	Required Resolution Plans 12 CFR 381 (FRB, FDIC)	84 FR 59194	The FRB & FDIC are jointly adopting this final rule implementing the resolution planning requirements of section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act). This final rule is intended to reflect improvements identified since the agencies finalized their joint resolution plan rule in November 2011 (2011 rule) and to address amendments to the Dodd-Frank Act made by the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). Through this final rule, the Board is also establishing risk-

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			based categories for determining the application of the resolution planning requirement to certain U.S. and foreign banking organizations, consistent with section 401 of EGRRCPA. The final rule also extends the default resolution plan filing cycle, allows for more focused resolution plan submissions, and improves certain aspects of the resolution planning rule.
12/31/2019	Changes to applicability thresholds for regulatory capital and liquidity requirements (OCC, FRB, FDIC, Treasury)	84 FR 59230	The OCC, FRB, and FDIC are adopting a final rule to revise the criteria for determining the applicability of regulatory capital and liquidity requirements for large U.S. banking organizations and the U.S. intermediate holding companies of certain foreign banking organizations. The final rule establishes four risk-based categories for determining the applicability of requirements under the agencies' regulatory capital rule and liquidity coverage ratio (LCR) rule. Under the final rule, such requirements increase in stringency based on measures of size, cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets, and off-balance sheet exposure. The final rule applies tailored regulatory capital and liquidity requirements to depository institution holding companies and U.S. intermediate holding companies with \$100 billion or more in total consolidated assets as well as to certain depository institutions. Separately, the Board is adopting a final rule that revises the criteria for determining the applicability of enhanced prudential standards for large domestic and foreign banking organizations using a risk-based category framework that is consistent with the framework described in this final rule, and makes additional modifications to the Board's company-run stress test and supervisory stress test rules. In addition, the Board and the FDIC are separately adopting a final rule that amends the resolution planning requirements under section 165(d) of the Dodd-Frank Wall Street Reform and Consumer Protection Act using a risk-based category framework that is consistent with the framework described in this final rule.
12/01/2019	Other Real Estate Owned (OCC)	84 FR 56369	The OCC is issuing a final rule to clarify and streamline its regulation on other real estate owned (OREO) for national banks and update the regulatory framework for OREO activities at Federal savings associations. The OCC is also removing outdated capital rules for national banks and Federal savings associations, which include provisions related to OREO, and making conforming edits to other rules that reference those capital rules.
10/09/2019	Real Estate Appraisals (FRB, FDIC, OCC)	84 FR 53579	The Federal Reserve, Federal Deposit Insurance Corporation and Office of the Comptroller of the Currency issued a final rule to amend regulations requiring appraisals of real estate for certain transactions and includes increasing the threshold level at or below which appraisals are not required for residential real estate transactions to \$400,000.
11/24/2019	Stress Testing Rules (OCC)	84 FR 54472	The OCC is adopting a final rule to amend the OCC's company-run stress testing requirements for national banks and Federal savings associations, consistent with section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. Specifically, the final rule revises the minimum threshold for national banks and Federal savings associations to conduct stress tests

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			from \$10 billion to \$250 billion, revises the frequency by which certain national banks and Federal savings associations will be required to conduct stress tests, and reduces the number of required stress testing scenarios from three to two.
02/01/2020	CTR Changes (FinCEN)	N/A	FinCEN announced that it updated the requirements for completing a CTR when an individual subject has multiple Part I Item 2 roles. FinCEN updated the FAQs and XML Users Guide to reflect the change. The effective date of the new requirements is February 1, 2020.

PROPOSED REGULATIONS

Comments Due	Regulation	Citation	Summary
12/16/2019	Interagency Policy Statement on Allowances for Credit Losses (NCUA, OCC, FRS, FDIC)	84 FR 55510	This proposed interagency policy statement describes the measurement of expected credit losses under the current expected credit losses (CECL) methodology and the accounting for impairment on available-for-sale (AFS) debt securities in accordance with FASB ASC Topic 326; supervisory expectations for designing, documenting, and validating expected credit loss estimation processes, including the internal controls over these processes; maintaining appropriate ACLs; the responsibilities of boards of directors and management; and examiner reviews of ACLs.
11/08/2019	Interest Rate Restrictions on Institutions That Are Less Than Well Capitalized (FDIC)	84 FR 54044	On September 4, 2019, the Federal Deposit Insurance Corporation (FDIC) issued a notice of proposed rulemaking with request for comments on proposed revisions to its regulations relating to interest rate restrictions that apply to less than well capitalized insured depository institutions. The FDIC is supplementing that notice of proposed rulemaking with an updated regulatory flexibility analysis to reflect changes to the Small Business Administration's monetary-based size standards which were adjusted for inflation as of August 19, 2019.

RESOURCES/GUIDANCE

Guidance	Summary
GAO Report of the Bank Secrecy Act	The Government Accountability Office published a report of FinCEN's collection and dissemination of BSA data. Four recommendations came out of the report: (1) The Director of FinCEN, after consulting with CFTC, should consider prioritizing the inclusion of the primary SRO conducting BSA examinations in the futures industry in the Bank Secrecy Act Advisory Group (BSAAG) on a more consistent basis and also making the primary futures industry association a concurrent member. (2) The Director of FinCEN, after consulting with CFTC, should take steps to explore providing direct BSA data access to NFA. (3) The Director of FinCEN should review options for FinCEN to more consistently and publicly provide summary data on the usefulness of BSA reporting. This review could either be concurrent with FinCEN's BSA value study or through another method. (4) The Director of FinCEN should review options for establishing a mechanism through which law enforcement agencies may provide regular

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	and institution-specific feedback on BSA reporting. Options should take into consideration providing such feedback to cover different types of financial institutions and those with significant financial activity. This review could either be part of FinCEN’s BSA value study or through another method.
Fiscal Year 2020 Bank Supervision Operating Plan (OCC)	The Plan explains the OCC’s supervisory priorities and objects for the fiscal year October 1, 2019 – September 30, 2020. Supervisory strategies focus on: cybersecurity and operational resiliency, Bank Secrecy Act/anti-money laundering (BSA/AML) compliance management, commercial and retail credit underwriting practices and oversight and control functions, impact of changing interest rate outlooks on bank activities and risk exposures, preparedness for the current expected credit losses (CECL) account standard, and preparation for the potential phase-out of the London Interbank Offering Rate (LIBOR), and technological innovation and implementation.
Joint Statement on Activities Involving Digital Assets (CFTC, FinCEN, SEC)	The U.S. Commodity Futures Trading Commission, FinCEN, and the SEC issued a joint statement to remind persons engaged in activities involving digital assets of their anti-money laundering and countering the financing of terrorism (AML/CFT) obligations under the Bank Secrecy Act (BSA).
Risk Management Manual of Examination Policies (FDIC)	The FDIC updated Section 6.1 Liquidity and Funds Management portion of the RMS Manual. Now included are discussion of new statutory and regulatory provisions related to reciprocal deposits; added a new section on securing public funds with standby letters of credits; as well as, clarified expectations related to examination assessment of brokered and rate sensitive deposits.

COMPLIANCE SERVICES GROUP

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Compliance Services Group will be closed:
November 28 & 29 for Thanksgiving
December 24 & 25 for Christmas

The Washington State Department of Financial Institutions released its [Fall 2019 Newsletter](#). Included in the Newsletter are articles on [Banking Marijuana Businesses](#), [Offsite Bank Examinations](#), and [MERIT exams for credit unions](#), among others.

The MERIT (Modern Examination and Risk Identification Tool) for credit unions replaces the existing AIRE (Automated Integrated Regulatory Examination System). Washington State is one of the first states to pilot the new tool. (The NCUA released a list of [FAQs](#) for the MERIT tool.)

The CFPB issued its [Semi-Annual Report](#) to Congress covering work from October 1, 2018 to March 31, 2019. Included in the Report are the rulemaking initiatives that the Bureau is planning:

Pre-rulemaking:

- **Business Lending Data (Regulation B).** Consistent with undertaking rulemaking to implement the EGRRCPA, the Bureau is working to develop rules to implement Section 1071 of the Dodd-Frank Act. Section 1071 amended the ECOA to require financial institutions to collect, report, and make public certain information concerning credit applications made by women-owned, minority-owned, and small businesses. The Bureau expects that it will be able to resume pre-rulemaking activities on the Section 1071 project within this next year. In November 2019, the Bureau plans to conduct a symposium on small business loan data collection.
- **Higher-Priced Mortgage Loan Escrow Exemption.** Prior to the enactment of the Dodd-Frank Act, the Federal Reserve Board (Board) issued a rule requiring the establishment of escrow accounts for payment of property taxes and insurance payments for certain “higher-priced mortgage loans,” a category which the Board defined to include what it deemed to be subprime loans. Pursuant to the Dodd-Frank Act, the Bureau in 2013 issued a rule creating an exemption from the escrow requirement for creditors with under \$2 billion in assets and meeting other criteria. Section 108 of the EGRRCPA amended 15 U.S.C. 1639d to direct the Bureau to conduct a rulemaking to exempt from the escrow requirement loans made by certain creditors with assets of \$10 billion or less and meeting other criteria. The Bureau plans to publish a notice of proposed rulemaking during FY 2020 concerning this exemption.
- **Remittance Transfers.** Section 1073 of the Dodd-Frank Act contains an exception to disclosure requirements for international remittance transfers that permits insured depository institutions and insured credit unions in certain circumstances to estimate certain pricing information. As mandated by statute, this exception will expire on July 21, 2020. The Bureau is now considering appropriate steps, which may include rulemaking, related to the expiration of the exception and other potential remittance transfer issues. In its consideration of next steps, the Bureau is also taking account of stakeholder feedback that it received both during and after the assessment process, mentioned above. [\[Blog Post\]](#)
- **Home Mortgage Disclosure Act (Regulation C) Data Collection and Reporting Requirements.** The Bureau announced in December 2017, that it intends to open a rulemaking to reconsider various aspects of a 2015 final rule that amended regulations implementing HMDA. The Bureau expects to issue in 2019 an Advance Notice of Proposed Rulemaking to consider adjustments to certain data points reported under HMDA that were added or revised by the 2015 final rule. The Bureau’s goal in

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gathering this information is to ensure that the data collection and reporting requirements established in the 2015 HMDA Rule appropriately balance the benefits and burdens associated with data collection and reporting. The information received will help the Bureau determine whether to formulate a proposed rule relating any of the data points from the 2015 final rule.

Proposed rules for the upcoming period, as reflected in the Bureau's Spring 2019 Unified Agenda:

- **Debt Collection Rule.** The Bureau has been engaged in research and pre-rulemaking activities regarding debt-collection practices. The Bureau released an outline of proposals under consideration in July 2016, concerning practices by companies that are debt collectors under the Fair Debt Collection Practices Act (FDCPA), in advance of convening a panel in August 2016, under the Small Business Regulatory Enforcement Fairness Act in conjunction with the Office of Management and Budget and the Small Business Administration's Chief Counsel for Advocacy to consult with representatives of small businesses that might be affected by the rulemaking.
- **Home Mortgage Disclosure Act (Regulation C).** The Bureau expects to issue a Notice of Proposed Rulemaking in spring 2019 to follow up on a previous temporary adjustment to the thresholds for collecting and reporting data with respect to open-end lines of credit and to seek comment on adjustments to these thresholds as well as to the thresholds for collecting and reporting data with respect to closed-end mortgage loans, and to incorporate an interpretive and procedural rule that it issued in August 2018 to clarify partial HMDA exemptions created by the EGRRCPA. [\[Blog Post\]](#)
- **Public Release of Home Mortgage Disclosure Act Data.** This rule will facilitate further implementation of a statutory directive in the Dodd-Frank Act that the Bureau modify or require modification of the public HMDA data for the purpose of protecting consumer privacy interests. Commencing a notice-and-comment rulemaking will enable the Bureau to adopt a more definitive approach to disclosing HMDA data to the public in future years after considering new information concerning the privacy risks and benefits of disclosure of the HMDA data.

Final rules for the upcoming period as reflected in the Bureau's Spring 2019 Unified Agenda:

- **Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date.** The Bureau announced in 2018 that it intended to open a rulemaking to reconsider its 2017 rule titled Payday, Vehicle Title, and Certain High-Cost Installment Loans. The rule has a compliance date in August 2019. The Bureau issued a Notice of Proposed Rulemaking in February 2019 that proposed to delay the compliance date for provisions of the rule concerning the underwriting of covered short-term and longer-term balloon payment loans for 15 months to allow the Bureau adequate opportunity to review comments on its main rulemaking and to make any changes to those provisions before affected entities bear additional costs and experience related market effects associated with implementing and complying with them. The postponement would also account for potential implementation challenges that had not been anticipated at the time of the 2017 rule.
- **The Expedited Funds Availability Act (Regulation CC).** The Expedited Funds Availability Act (EFA Act), implemented by Regulation CC, governs availability of funds after a check deposit and check collection and return processes. The Bureau worked with the Board to issue jointly a proposal for implementing the statutory requirement to adjust for inflation the dollar amounts in the EFA Act and to reflect certain amendments to the statute by the EGRRCPA. The agencies also sought new or updated comments concerning the issues raised in the Board's March 2011 proposal that are subject to the Bureau's joint rulemaking authority; the Bureau will review this information before considering whether and how to proceed concerning these issues. In addition, the Bureau will work with the Board to issue jointly a final rule by June 2019 to implement the statutory requirement to

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adjust for inflation the dollar amounts in the EFA Act and to reflect certain amendments to the statute by the EGRRCPA.

Inflation Adjustments:

Higher Priced Mortgage Loan Exemption Threshold (Regulation Z)

From January 1, 2020, through December 31, 2020, the threshold amount is \$27,200.

Consumer Leasing (Regulation M)

From January 1, 2020 through December 31, 2020, the threshold amount is \$58,300.

Truth in Lending (Regulation Z)

From January 1, 2020 through December 31, 2020, the threshold amount is \$58,300.



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