

Regulatory and Legislative Recap  
November 2019

**FINAL REGULATIONS/RULES**

Effective Date	Regulation	Citation	Summary
01/01/2020	Fair Credit Reporting Act (CFPB)	<a href="#">84 FR 65280</a>	The maximum charge for a credit report that agencies may charge consumers in 2020 stays the same as in 2019; \$12.50.
01/02/2020	Exceptions to Employment Restrictions Under Section 205(d) of the Federal Credit Union Act (“Second Chance IRPS”) (NCUA)	<a href="#">84 FR 65907</a>	The NCUA is updating and revising its Interpretive Ruling and Policy Statement (IRPS) regarding statutory prohibitions imposed by Section 205(d) of the Federal Credit Union Act (FCU Act). Section 205(d) prohibits, except with the prior written consent of the NCUA, any person who has been convicted of any criminal offense involving dishonesty or breach of trust, or who has entered into a pretrial diversion or similar program in connection with a prosecution for such offense, from participating in the affairs of an insured credit union. The NCUA is rescinding current IRPS 08-1 and issuing a revised and updated IRPS to reduce regulatory burden. The NCUA is amending and expanding the current de minimis exception to reduce the scope and number of offenses that will require an application to the NCUA. Specifically, the final IRPS will not require an application for convictions involving insufficient funds checks of aggregate moderate value, small dollar simple theft, false identification, simple drug possession, and isolated minor offenses committed by covered persons as young adults.
11/24/2019	Interpretive Rule Regarding Screening/Training Requirements for MLOs with Temporary Authority (CFPB)	<a href="#">84 FR 63791</a>	The CFPB issued an interpretive rule stating that a loan originator organization is not required to comply with certain screening and training requirements under Regulation Z provided the individual loan originator employee is authorized to act as a loan originator pursuant to the temporary authority described in the SAFE Act. In addition, the CFPB also issued its <a href="#">updated Loan Originator Rule Small Entity Compliance Guide</a> .
01/01/2020	Proprietary Trading (FRB, CFTC, FDIC, OCC, & SEC)	<a href="#">84 FR 61974</a>	The Federal Reserve, Commodity Futures Trading Commission, FDIC, OCC, and SEC issued a final rule to amend the regulations implementing section 13 of the Bank Holding Company Act that contains certain restrictions on the ability of a banking entity and nonbank financial company supervised by the Federal Reserve to engage in proprietary trading and have certain interests in, or relationships with, a hedge fund or private equity fund. The effective dates for this final rule range from January 1, 2020 through January 13, 2020. Banking entities must comply with this final rule by January 1, 2021.
01/01/2020	Simplification for Qualifying Community Banking Organizations	<a href="#">84 FR 61776</a>	The Federal Reserve, Federal Deposit Insurance Corporation, and Office of the Comptroller of the Currency issued a final rule that will allow certain depository institutions and depository institution holding companies to opt into a community bank leverage ratio framework provided

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	(FDIC, FRB, OCC)		they meet certain criteria.
	<a href="#">Geographic Targeting Orders</a> (FinCEN)		FinCEN reissued its geographic targeting orders temporarily requiring U.S. title insurance companies in specified areas to identify the individuals behind companies used to conduct high-end, all-cash real estate transactions. The purchase amount threshold remains at \$300,000 for each covered metropolitan area. In a change from previously issued orders, the new GTOs will not require reporting for purchases made by legal entities that are U.S. publicly traded companies.

## PROPOSED REGULATIONS

Comments Due	Regulation	Citation	Summary
01/28/2020	Real Estate Appraisals (NCUA)	<a href="#">84 FR 65707</a>	The NCUA Board (Board) proposes to amend the agency's regulation requiring appraisals for certain real estate-related transactions. The proposed rule would increase the threshold level 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 appraisal thresholds, federally insured credit unions (FICUs) would be required to obtain written estimates of market value of the real estate collateral that is consistent with safe and sound banking practices in lieu of an appraisal. For easier reference, the proposed rule would explicitly incorporate the existing statutory requirement that appraisals be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP). This proposal is consistent with the final rule, effective on October 9, 2019, issued by the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (other banking agencies) that increases the threshold level at or below which appraisals are not required for residential real estate transactions from \$250,000 to \$400,000.
12/09/2019	Chartering & Field of Membership (NCUA)	<a href="#">84 FR 59989</a>	The NCUA is proposing to amend its chartering and field of membership rules with respect to applicants for a community charter approval, expansion, or conversion. Specifically, the Board is proposing to re-adopt a provision to allow an applicant to designate a Combined Statistical Area, or an individual, contiguous portion thereof, as a well-defined local community, provided that the chosen area has a population of 2.5 million or less. Separately, in accordance with an August 2019 opinion and order issued by the D.C. Circuit Court of Appeals with respect to communities based on a Core-Based Statistical Area or a portion thereof, the NCUA is providing further explanation and support for its elimination of the requirement to serve the CBSA's core area as provided for in

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			a 2016 rulemaking. In addition, the NCUA is proposing to clarify existing requirements and add an explicit provision to its rules to address concerns about potential discrimination in the FOM selection for CSAs and CBSAs.
01/21/2020	Permissible interest on loans that are sold, assigned, or otherwise transferred (OCC & <a href="#">FDIC</a> )	<a href="#">84 FR 64229</a>	The OCC & FDIC is soliciting comments on a proposed rule to clarify that when a national bank or savings association sells, assigns, or otherwise transfers a loan, interest permissible prior to the transfer continues to be permissible following the transfer (“valid when made”). This proposal will address confusion about the effect of a transfer on a loan’s valid interest rate, including confusion resulting from a recent decision from the U.S. Court of Appeals for the Second Circuit (Madden v. Midland Funding, LLC).

## RESOURCES/GUIDANCE

Guidance	Summary
<a href="#">Advisory on the Financial Action Task Force- Identified Jurisdictions with Anti-Money Laundering and Combating the Financing of Terrorism Deficiencies and Relevant Actions by the United States Government</a> (FinCEN)	FinCEN issued this advisory to inform financial institutions of updates to the FATF list of jurisdictions with strategic AML/CFT deficiencies. Financial institutions should be aware of these changes, which may affect their obligations and risk-based approaches with respect to these jurisdictions. The advisory also reminds financial institutions of the status of, and obligations involving, these jurisdictions, in particular the Democratic People’s Republic of Korea (DPRK) and Iran.
<a href="#">Business Continuity Management</a> (FFIEC)	The FFIEC revised its Business Continuity Management Booklet, which is part of its Information Technology Examination Handbook. The booklet—which replaces a previous booklet issued in 2015—provides guidance to examiners on the principles of business continuity management and approaches toward business continuity planning and resilience. It also provides examination procedures to help determine the effectiveness of an institution’s business continuity and resilience framework.

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Compliance Services Group will be closed:  
December 24 & 25 for Christmas  
We will be offsite on January 16 for an all-day staff strategic planning session

FinCEN made inflation adjustments to [BSA](#) related penalties as of October 10, 2019.

US Code Citation	Civil Monetary Penalty Description	Penalties as last amended by statute	Maximum penalty amounts or range of minimum and maximum penalty amount for penalties assessed on or after October 10, 2019
12 USC 1829b(j)	Relating to Recordkeeping Violations For Funds Transfers	\$10,000	\$21,039
12 USC 1955	Willful or Grossly Negligent Recordkeeping Violations	10,000	21,039
31 USC 5318(k)(3)(C)	Failure to Terminate Correspondent Relationship with Foreign Bank	10,000	14,231
31 USC 5321(a)(1)	General Civil Penalty Provision for Willful Violations of Bank Secrecy Act Requirements	25,000 - 100,000	57,317 -229,269
31 USC 5321(a)(5)(B)(i)	Foreign Financial Agency Transaction—Non-Willful Violation of Transaction	10,000	13,247
31 USC 5321(a)(5)(C)(i)(I)	Foreign Financial Agency Transaction—Willful Violation of Transaction	100,000	132,469
31 USC 5321(a)(6)(A)	Negligent Violation by Financial Institution or Non-Financial Trade or Business	500	1,146
31 USC 5321(a)(6)(B)	Pattern of Negligent Activity by Financial Institution or Non-Financial Trade or Business	50,000	89,170
31 USC 5321(a)(7)	Violation of Certain Due Diligence Requirements, Prohibition on Correspondent Accounts for Shell Banks, and Special Measures	1,000,000	1,423,088
31 USC 5330(e)	Civil Penalty for Failure to Register as Money Transmitting Business	5,000	8,457

**At the CFPB:**

The CFPB published its plan for conducting a five-year assessment of the 2013 TILA-RESPA Integrated Disclosure rule. The CFPB is conducting the review pursuant to the Dodd-Frank Act, which requires that all significant rules issued by the bureau be assessed within five years of their effective date.

The CFPB is [seeking feedback](#) on the costs and benefits of the TRID rule for consumers, lenders and other stakeholders, aspects of the rule that are confusing or in need of further guidance and recommendations for modifying, expanding or eliminating the rule, among other things.

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November 2019

**Also on the CFPB's docket:**

Prerule Stage	Business Lending Data (Regulation B)	<a href="#">3170-AA09</a>
Prerule Stage	Higher-Priced Mortgage Loan Escrow Exemption	<a href="#">3170-AA83</a>
Prerule Stage	Property Assessed Clean Energy Financing	<a href="#">3170-AA84</a>
Prerule Stage	Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z)	<a href="#">3170-AA98</a>
Proposed Rule Stage	Debt Collection Rule	<a href="#">3170-AA41</a>
Proposed Rule Stage	Public Release of Home Mortgage Disclosure Act Data	<a href="#">3170-AA85</a>
Proposed Rule Stage	Remittance Transfers	<a href="#">3170-AA96</a>
Proposed Rule Stage	Home Mortgage Disclosure Act (Regulation C)	<a href="#">3170-AA97</a>
Final Rule Stage	Home Mortgage Disclosure Act (Regulation C)	<a href="#">3170-AA76</a>
Final Rule Stage	Payday, Vehicle Title, and Certain High-Cost Installment Loans	<a href="#">3170-AA80</a>

Long-Term Actions	Amendments to FIRREA Concerning Appraisals (Automated Valuation Models)	<a href="#">3170-AA57</a>
Long-Term Actions	Disclosure of Records and Information	<a href="#">3170-AA63</a>
Long-Term Actions	Review of Inherited Regulations	<a href="#">3170-AA73</a>
Long-Term Actions	Consumer Access to Financial Records	<a href="#">3170-AA78</a>
Long-Term Actions	Conforming Rules for the Economic Growth, Regulatory Relief, and Consumer Protection Act	<a href="#">3170-AA86</a>
Long-Term Actions	Abusive Acts and Practices	<a href="#">3170-AA88</a>
Long-Term Actions	Loan Originator Compensation	<a href="#">3170-AA99</a>
Long-Term Actions	E-Sign Act Requirements	<a href="#">3170-AB00</a>

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