

**Compliance Services Group, LLC is now scheduling engagements  
for the 2021 calendar year.**

**We are filling up quickly!**

**In addition to general compliance consulting, we offer the following reviews:**

- ACH
- Bank Secrecy Act and Anti Money Laundering (BSA/AML)
- CMS
- CRA
- Deposit/Operations Compliance
- ECOA (Reg B)
- Fair Lending Compliance
- HMDA file review or audit
- Loan Compliance
- Mortgage Servicing
- Paycheck Protection Program (PPP)
- Reg Z including APR validation
- SAFE Act
- Website Compliance including ADA accessibility
- Wire

And many more!

Please consider us for your financial services compliance consulting and review needs at competitive rates. **Visit us at [Compliance Services Group, LLC](#) for details.** If you would like to schedule a review for 2021 or have any questions, **please contact our Lead Compliance Auditor, Tricia Briggs, at [tricia.briggs@complianceservicesgroup.com](mailto:tricia.briggs@complianceservicesgroup.com).**

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**FINAL REGULATIONS/RULES**

Effective Date	Regulation	Citation	Summary
10/26/2020	Fair Housing Act's Disparate Impact Standard (HUD)	<a href="#">85 FR 60288</a>	The final rule adds five elements that must be included in disparate impact claims under the FHA: a challenged practice is arbitrary, artificial and unnecessary to achieve a valid or legitimate objective; a "robust causal link" between the challenged policy or practice and the disparate impact; the challenged policy or practice has a harmful effect on a protected class; the disparity is significant; and there is a direct relation between the injury and the challenged policy or practice. The final rule also provides methods for defendants to rebut disparate impact claims. For example, at the pleading stage of a claim, defendants may argue that the plaintiffs have failed to plead one of the elements above or show that a challenged policy or practice is required to comply with a binding third-party requirement such as law (also available at the merits stage). At the merits stage of a claim, a defendant may defeat a claim by demonstrating that the practice or policy is intended to predict an outcome, that the prediction represents a valid interest, and that the outcome predicted does not or would not have a disparate impact on a protected class.
11/16/2020	Financial Crimes Enforcement Network; Customer Identification Programs, Anti-Money Laundering Programs, and Beneficial Ownership Requirements for Banks Lacking a Federal Functional Regulator (FinCEN)	<a href="#">85 FR 57129</a>	To ensure consistent Bank Secrecy Act (BSA) coverage across the banking industry, the Financial Crimes Enforcement Network (FinCEN) issued a final rule that requires minimum standards for anti-money laundering programs for banks lacking a Federal functional regulator. The final rule also extends customer identification program and beneficial ownership requirements to those banks.
09/30/2020	Regulatory Capital Rule: Revised Transition of the Current Expected Credit Losses Methodology for Allowances (OCC, FRB, FDIC)	<a href="#">85 FR 61577</a>	The rule provides banking organizations that implement CECL during the 2020 calendar year the option to delay for two years an estimate of CECL's effect on regulatory capital, relative to the incurred loss methodology's effect on regulatory capital, followed by a three-year transition period.
09/14/2020	Chartering and Field of Membership (NCUA)	<a href="#">85 FR 56498</a>	First, the Board is re-adopting a provision to allow an applicant to designate a Combined Statistical Area (CSA), or an individual, contiguous portion thereof, as a well-defined local community (WDLC), provided that the chosen area has a population of 2.5 million or less. Second,

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			with respect to communities based on a Core-Based Statistical Area (CBSA), or a portion thereof, the Board is providing additional explanation to support its decision to eliminate the requirement to serve the CBSA's core area as provided for in its comprehensive 2016 FOM rulemaking known as FOM1. Third, the Board is clarifying existing requirements and adding an explicit provision to its rules regarding potential discrimination in the FOM selection for CSAs and CBSAs.

### PROPOSED REGULATIONS

Comments Due	Regulation	Citation	Summary
09/28/2020	Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z): Seasoned QM Loan Definition (CFPB)	<a href="#">85 FR 60096</a>	The CFPB issued a proposal to create a new category of QMs (Seasoned QMs) for first-lien, fixed-rate covered transactions that have met certain performance requirements over a 36-month seasoning period, are held in portfolio until the end of the seasoning period, comply with general restrictions on product features and points and fees, and meet certain underwriting requirements.

### RESOURCES/GUIDANCE

Guidance	Summary
<a href="#">Amended Field of Membership Application Requirements for Combined Statistical Area and Core-Based Statistical Area</a> 20-FCU-03 (NCUA)	On October 14, 2020, amendments to the NCUA's chartering and field-of-membership rules (12 CFR Part 701 Appendix B) will go into effect. These changes will allow a credit union applying for NCUA approval of a community charter, expansion, or conversion to designate a Combined Statistical Area (CSA) or an individual, contiguous portion of a CSA as a well-defined local community (WDLC) if the area has a population of 2.5 million or less. Beginning October 14, 2020, prospective and existing federal credit unions seeking a community charter may use a CSA or portions of a CSA (within certain limitations, as defined in the rule) as a basis for defining their proposed service area without documenting how a CSA's residents interact or share common interests. The Board's approval of this final rule will facilitate greater access to safe and affordable financial services for all Americans.
<a href="#">Information Reporting Requirements for Paycheck Protection Program Loans Forgiven under the CARES Act</a> (IRS)	This announcement notifies lenders that they should not file information returns or furnish payee statements under section 6050P of the Internal Revenue Code (Code) to report the amount of qualifying forgiveness with respect to covered loans made under the Paycheck Protection Program (PPP).

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<p><a href="#">Supervisory Highlights Summer 2020</a> (CFPB)</p>	<p>Highlights of the examination findings include: <i>Consumer Reporting</i> the Bureau cited violations of the FCRA’s requirement that lenders first establish a permissible purpose before they obtain a consumer credit report. Additionally, the report notes instances where furnishers failed to review account information and other documentation provided by consumers during direct and indirect disputes. The Bureau notes that “[i]nadequate staffing and high daily dispute resolution requirements contributed to the furnishers’ failure to conduct reasonable investigations.” <i>Debt Collection</i> the report states that examiners found one or more debt collectors (i) falsely threatened consumers with illegal lawsuits; (ii) falsely implied that debts would be reported to credit reporting agencies (CRA); and (iii) falsely represented that they operated or were employed by a CRA. The Bureau discusses violations related to Regulation E and Regulation DD, including requiring waivers of consumers’ error resolution and stop payment rights and failing to fulfill advertised bonus offers. <i>Fair Lending</i> the report notes instances where examiners cited violations of ECOA, including intentionally redlining majority-minority neighborhoods and failing to consider public assistance income when determining a borrower’s eligibility for mortgage modification programs. <i>Mortgage Servicing</i> the Bureau cited violations of Regulation Z and Regulation X, including (i) failing to provide periodic statements to consumers in bankruptcy; (ii) charging forced-placed insurance without a reasonable basis; and (iii) various errors after servicing transfers. <i>Payday Lending</i> the report discusses violations of the Consumer Financial Protection Act for payday lenders, including (i) falsely representing that they would not run a credit check; (ii) falsely threatening lien placement or asset seizure; and (iii) failing to provide required advertising disclosures.</p>
<p><a href="#">Credit Risk: Risk Management of Loan Purchase Activities Bulletin 2020-81</a> (OCC)</p>	<p>The bulletin covers strategic plan and risk appetite; lending policies and procedures; and credit administration, including due diligence and independent credit analysis, additional considerations for loan portfolio and pool purchases, and recourse arrangements.</p>
<p><a href="#">Bulletin 2020-80</a> <a href="#">Bulletin 2020-79</a> (OCC)</p>	<p>The OCC has revised its Federal Branches and Agencies booklet of the Comptroller’s Licensing Manual and replaced it Comptroller’s Handbook on other real estate owned (OREO).</p>

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The Consumer Financial Protection Bureau released its [Summer 2020 Supervisory Highlights](#) in September. The report covered examinations in the areas of consumer reporting, debt collection, deposits, fair lending, and mortgage servicing that were completed between September 2019 and December 2019. There was a wide gamut of observations made by the CFPB on consumer reporting, debt collection, deposits, fair lending, mortgage servicing, and payday lending. It also contains COVID-19 related information and guidance.

### **Consumer Reporting**

Examiners found that one or more lenders obtained consumers' credit reports without a permissible purpose. In reviewing files for compliance with permissible purpose requirements, examiners found that the lenders' employees obtained consumers' credit reports from a CRC without first establishing that the lenders had a permissible purpose to obtain the report under the FCRA.

Examiners found that, for both direct and indirect disputes, the furnishers failed to review underlying account information and documentation, account history notes, or dispute-related correspondence provided by the consumer to assess what reasonable investigative steps would be necessary.

### **Deposits**

Examiners found that one or more financial institutions required consumers to sign deposit account agreements that stated that the consumers would "cooperate" with the institution's investigation of any errors filed by the consumer. The "cooperation" included providing affidavits and notifying law enforcement authorities. By requiring consumers to "cooperate" with Regulation E error investigations and provide information beyond that which is required in EFTA and Regulation E, the financial institutions' agreements contained provisions that waived consumers' rights in violation of EFTA.

Examiners found that one or more financial institutions required consumers to sign stop payment request forms and deposit agreements in which the consumers agreed to indemnify and hold the institutions harmless for various claims and expenses arising from the institutions honoring stop payment requests. This included not holding the financial institutions liable if they were unable to stop the payment due to inadvertence, accident, or oversight.

### **Fair Lending**

Examiners found that one or more lenders violated ECOA and Regulation B by maintaining a policy and practice that excluded certain forms of public assistance income, without considering the applicant's actual circumstances including unemployment compensation and SNAP benefits, commonly known as food stamps, from consideration in determining a borrower's eligibility for mortgage modification programs.

### **Payday Lending**

Examiners found that one or more lenders engaged in deceptive acts or practices in violation of the CFPA when they represented on websites and in mailed advertising that consumers could apply for payday loans online. Examiners found the representations misled or were likely to mislead consumers. Although consumers could enter limited information online, the lenders

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required them to visit physical storefront locations to re-enter information and complete the loan application process.

Examiners observed one or more lenders engaged in deceptive acts or practices in violation of the CFPA when they falsely represented on proprietary websites, social media, and other advertising that they would not conduct a credit check. In fact, the lenders used consumer reports from at least one CRC in determining whether to extend credit. It was reasonable for a consumer to interpret the representations as meaning that the lenders would not check a consumer's credit history when deciding whether to extend credit, and the representations were material because they were likely to affect consumers' conduct with respect to loans.

These are just a sampling of the finding noted. If you have any concerns about your institution's compliance with any of these areas, let us know. We have trained auditors and consultants that can help in every area. Check out [who we are](#) on our website.



COMPLIANCE SERVICES GROUP

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