

Are you ready for increased focus on the Military Lending Act (MLA)?

On January 28, 2021, CFPB's Acting Director, Dave Uejio, announced that the CFPB is reversing its previous opinion that it did not have the statutory authority to supervise lenders for compliance with the MLA. "As of today, it is the official policy of the CFPB to supervise lenders with regard to the Military Lending Act. And we are planning to rescind public statements conveying a relaxed approach to enforcement of the laws in our care." – [Dave Uejio](#)

Even before this announcement, the MLA was a hot spot. Two recent MLA settlements totaled over \$3 million in civil money penalties. ([LendUp](#), [Omni](#))

Will the CFPB's increased focus result in more civil money penalties?

Compliance Services Group has a comprehensive audit program that includes:

- Evaluation of applicable policies and procedures;
- Determination whether steps are taken to identify MLA covered borrowers;
- If the Military Annual Percentage Rate (capped at 36%) is properly calculated;
- Whether necessary disclosures are provided; and
- If MLA covered loans comply with contractual limitations such as the prohibition against arbitration clauses.

COMPLIANCE SERVICES GROUP

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FINAL REGULATIONS/RULES

Effective Date	Regulation	Citation	Summary
03/26/2021	Joint Ownership Share Accounts (NCUA)	86 FR 11098	See our blog .
01/01/2022	Subordinated Debt (NCUA)	86 FR 11060	The NCUA is amending various parts of the NCUA's regulations to permit Low-income Designated Credit Unions, Complex Credit Unions, and New Credit Unions to issue Subordinated Debt for purposes of Regulatory Capital treatment. The NCUA issued the proposed Subordinated Debt rule at its January 2020 meeting. The Board is finalizing the rule largely as proposed, except for a few changes to various sections based on comments received. Such changes include amending the definition of Accredited Investor, providing a longer timeframe in which a credit union may issue Subordinated Debt after approval, reducing the required number of years of Pro Forma Financial Statements an Issuing Credit Union must provide with its application, clarifying the prohibition on Subordinated Debt issuances outside of the United States, and clarifying that the NCUA will publish a fee schedule only if it makes a determination to charge a fee.
02/17/2021	Higher-Priced Mortgage Loan Escrow Exemption (CFPB)	86 FR 9840	The CFPB is issuing this final rule to amend Regulation Z, which implements the Truth in Lending Act, as mandated by section 108 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. The amendments exempt certain insured depository institutions and insured credit unions from the requirement to establish escrow accounts for certain higher-priced mortgage loans.
03/12/2021	Regulation D: Reserve Requirements of Depository Institutions (FRB)	86 FR 8853	The Board of Governors of the Federal Reserve System is adopting as a final rule, without change, its March 24, 2020 interim final rule amending its Regulation D (Reserve Requirements of Depository Institutions) to lower reserve requirement ratios on transaction accounts maintained at depository institutions to zero percent.
03/05/2021	Role of Supervisory Guidance (NCUA, FDIC, FR, OCC, CFPB)	86 FR 7949	Codifies the 2018 <i>Interagency Statement Clarifying the Role of Supervisory Guidance</i> . The 2018 Statement reiterated well-established law by stating that, unlike a law or regulation, supervisory guidance does not have the force and effect of law. As such, supervisory guidance does not create binding legal obligations for the public.

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PROPOSED REGULATIONS

Comments Due	Regulation	Citation	Summary
03/29/2021	Credit Union Service Organizations (CUSOs) (NCUA)	86 FR 11645	The NCUA is seeking comment on a proposed rule that would amend the NCUA's credit union service organization regulation. The proposed rule would accomplish two objectives: Expanding the list of permissible activities and services for CUSOs to include originating any type of loan that a Federal credit union (FCU) may originate; and granting the NCUA additional flexibility to approve permissible activities and services. The NCUA is also seeking comment on broadening FCU investment authority in CUSOs.
03/25/2021	Risk-Based Net Worth- COVID-19 Regulatory Relief (NCUA)	86 FR 10872	The NCUA is issuing this proposal to raise the asset threshold for defining a credit union as "complex" for purposes of being subject to any risk-based net worth requirement in the NCUA's regulations. The proposed rule would amend the NCUA's regulations to provide that any risk-based net worth requirement will be applicable only to a federally insured natural-person credit union with quarter-end assets that exceed \$500 million and a risk-based net worth requirement that exceeds six percent. The COVID-19 pandemic has created a vital need for financial institutions, including credit unions, to provide access to responsible credit and other member services to support consumers. Implementing this regulatory change in advance of January 1, 2022, the effective date of the 2015 final risk-based capital (RBC) rule issued by the NCUA, would provide necessary capital relief to a significant number of credit unions without substantially decreasing the safety and soundness of credit unions or the National Credit Union Share Insurance Fund.

RESOURCES/GUIDANCE

Guidance	Summary
BSA/AML Exam Manual Updates (FFIEC)	The FFIEC updated four sections of its BSA/AML Exam Manual: Introduction, Customer Identification Program, CTR, and Transactions of Exempt Persons.
Ability to Repay and Qualified Mortgages (CFPB)	The CFPB updated the small entity compliance guide and other compliance aids for the ATR/QM Rule. The Bureau also released a statement on the mandatory compliance date of the General QM Final Rule and possible reconsideration of the General QM Final Rule and the Seasoned QM Final Rule.
Technical Assistance Videos on Fair Lending FIL-10-2021	The FDIC has released nine technical assistance videos on fair lending. The information in the videos is intended as a high-level overview to help FDIC-supervised institutions assess and mitigate fair lending risk, and to understand how FDIC examiners evaluate fair lending compliance. Video 1 provides an overview of the federal fair lending laws and regulations and is intended for bank

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(FDIC)	directors and senior managers. Video 2 focuses on how a bank’s compliance management system can mitigate fair lending risk and is intended for bank management and compliance staff. Video 3 discusses how FDIC examiners evaluate fair lending risk during a consumer compliance examination and is intended for bank management and compliance staff. Videos 4-9 discuss specific fair lending risk factors, as provided in the interagency fair lending examination procedures: overt discrimination, underwriting, pricing, steering, redlining, and marketing. These six videos are intended for bank management and compliance staff.
Fourth Amended Guidance to Washington State Regulated and Exempt Residential Mortgage Loan Servicers Regarding Support for Consumers Impacted by COVID-19 (WA-DFI)	This amended guidance urges all mortgage servicers to continue to do their part to alleviate the adverse impact caused by COVID-19 on consumers. Servicers are urged to take reasonable and prudent actions, subject to the requirements of any related guarantees or insurance policies, to support those adversely impacted mortgagors by: Forbearing mortgage payments; Refraining from reporting late payments to credit rating agencies; Offering mortgagors additional time to complete trial loan modifications, and ensuring that late payments during the COVID-19 pandemic does not affect their ability to obtain permanent loan modifications; Waiving late payment fees and any online payment fees; Postponing foreclosures; and Ensuring that mortgagors do not experience a disruption of service if the mortgage servicer closes its office, including making available other avenues for mortgagors to continue to manage their accounts and to make inquiries; and Proactively reaching out to mortgagors via app announcements, text, email or otherwise to explain the assistance being offered to mortgagors.
Advisory on Financial Crimes Targeting COVID-19 Economic Impact Payments (FinCEN)	FinCEN issued this advisory alerting financial institutions to economic impact payment fraud. The advisory describes EIP fraud, associated red flags and how to report suspicious activity. Authorities have detected a wide range of EIP-related fraud, including fraudulent checks, theft of EIPs and phishing schemes using EIPs as a lure where fraudsters use emails, letters and phone calls about the payments to get personal information like account numbers and passwords. FinCEN also issued a companion notice for filing suspicious activity reports related to COVID-19. The notice is part of a series released by FinCEN about COVID-19 related threats and includes key terms to use when filing SARs about pandemic related activity.
Home Mortgage Disclosure Act Data Collection Requirements for Calendar Year 2021 21-RA-04 (NCUA)	Regulation C requires you to collect HMDA data associated with mortgage loan applications processed during 2021 if: (1) Your institution’s total assets as of December 31, 2020, exceeded \$48 million; (2) Your institution had a home or branch office in a Metropolitan Statistical Area on December 31, 2020; (3) Your institution originated at least one home purchase loan (other than temporary financing such as a construction loan) or refinanced a home purchase loan, secured by a first lien on a one-to-four-unit dwelling during 2020; and (4) Your institution originated at least 100 covered closed-end mortgage loans in each of the two preceding calendar years (2019 and 2020) or at least 500 covered open-end lines of credit in each of the two preceding calendar years (2019 and 2020). If your institution meets all four criteria, you must collect HMDA data during calendar year 2021 and submit the data to the CFPB no later than March 1, 2022.
Implementation of Executive Order 13988 on the Enforcement of the Fair Housing Act (HUD)	The HUD issued a memorandum stating that the agency interprets the Fair Housing Act to bar discrimination on the basis of sexual orientation and gender identity and directing HUD offices and recipients of HUD funds to enforce the Act accordingly. The memorandum begins implementation Executive Order 13988 on Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation which directs executive branch agencies to examine further steps that could be taken to combat such discrimination.
Libor Transition: Self-Assessment Tool for	This bulletin provides a self-assessment tool for banks to evaluate their preparedness for the expected cessation of the London InterBank Offered Rate (Libor). Bank management may use this self-assessment tool to evaluate bank risk management processes

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<p>Banks - OCC Bulletin 2021-7 (OCC)</p>	<p>to identify and mitigate the bank’s Libor transition risks. Not all sections or questions apply to all banks. Bank management should tailor the bank’s risk management process to the size and complexity of the bank’s Libor exposures. For example, large or complex banks and those with material Libor exposures should have a robust, well-developed transition process in place. In contrast, for small or non-complex banks and those with limited exposure to Libor-indexed instruments, less extensive and less formal transition efforts may be appropriate. Bank management should consider all applicable risks (e.g., operational, compliance, strategic, and reputation) when scoping and completing Libor cessation preparedness assessments.</p>
<p>Bank Stress Test Scenarios (FRS)</p>	<p>The Federal Reserve Board released the hypothetical scenarios for its 2021 bank stress tests. Last year, the Board found that large banks were generally well capitalized under a range of hypothetical events but due to continuing economic uncertainty placed restrictions on bank payouts to preserve the strength of the banking sector. The Board's stress tests help ensure that large banks are able to lend to households and businesses even in a severe recession. The exercise evaluates the resilience of large banks by estimating their loan losses and capital levels—which provide a cushion against losses—under hypothetical recession scenarios that extend nine quarters into the future.</p>
<p>Dodd-Frank Act Stress Test Scenarios for 2021 (OCC)</p>	<p>The Office of the Comptroller of the Currency released economic and financial market scenarios for use in the upcoming stress tests for covered institutions. The supervisory scenarios include baseline and severely adverse scenarios, as described in the OCC’s rule that implements stress test requirements of the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010. Covered institutions are required to use the scenarios to conduct stress tests. The results of the company-run stress tests provide the OCC with forward-looking information used in bank supervision and assist the agency in assessing the company’s risk profile and capital adequacy.</p>
<p>Interim Regulatory Guidance – Temporarily Working from Home EXTENDED THROUGH December 31, 2021 (WA-DFI)</p>	<p>On January 29, 2021, DFI prepared interim guidance to allow mortgage loan originators to temporarily work from home during Governor Jay Inslee’s state of emergency related to the COVID-19 outbreak. The has been extended to December 31, 2021, based on the status of the pandemic in Washington. This date is subject to change as conditions in Washington continue to evolve.</p>

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Oregon State Legislature:

Senate Bill 209 - Allows owner of interest held in financial institution or holder of traveler's check or money order to demonstrate lack of abandonment by electronic communication or other records by institution or issuer.	
House Standing:	Senate Standing: In Senate Committee
Senate Bill 210 - Provides that certain banking institutions may pay dividend in amount greater than previous statutory maximum amount if such payment is approved by Director of Department of Consumer and Business Services.	
House Standing:	Senate Standing: In Senate Committee
Senate Bill 339 - Establishes Bank of the State of Oregon. Specifies purposes of bank. Establishes Bank of the State of Oregon Board to operate and manage bank. Creates advisory board of directors to advise bank board and management on operation of bank.	
House Standing:	Senate Standing: In Senate Committee
House Bill 2268 - Exempts interest received on financial institution loans made to small business concerns from commercial activity subject to corporate activity tax.	
House Standing: In House Committee	Senate Standing
House Bill 2356 - Prohibits certain financial institutions from charging fee to customer for cashing check drawn on account at financial institution, if check is presented in Oregon.	
House Standing: In House Committee	Senate Standing
House Bill 2563 - Creates program through which certain lenders may receive award moneys to fund accounts out of which lenders may reimburse themselves for losses on certain loans to business owners and entrepreneurs who currently lack access to capital	
House Standing: In House Committee	Senate Standing

Washington State Legislature:

Senate Bill 2SSB 5188 - Concerning the creation of the Washington state public bank	
House Standing:	Senate Standing: In Senate Committee
Senate Bill 5106 - The condition that limits credit unions from accepting public deposits greater than the maximum insured amount from a county with a population greater than 300,000, or from public funds depositors located in a county with a population greater than 300,000 persons is eliminated.	
House Standing: In House Committee	Senate Standing: Passed Senate
House Bill 1165 - The Director shall determine, by rule, the definition of small credit unions for the purpose of providing relief from certain credit union requirements in state law or rule. State-chartered credit unions may have all of the powers and authorities held by federal credit unions as of December 31, 1993, or a subsequent date not later than the effective date of this act. The list of services credit unions may provide includes cashing checks, money orders, and other payment instruments for members and persons who are eligible for membership. Credit	

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<i>unions may impose reasonable charges for providing services to non-members. Credit unions may invest in the equity interest of corporations and other limited liability entities. The requirement that credit unions partially occupy property acquired for future expansion within a designated amount of time from acquisition is removed.</i>	
House Standing: Passed House	Senate Standing: In Senate Committee
House Bill 2SHB 1015 - <i>The Department of Commerce is directed to create and operate the Equitable Access to Credit Program (Program). The purpose of the Program is to award grants to qualified lending institutions (QLIs) to provide access to credit for historically underserved communities. The grants are funded by taxpayers who may receive a B&O tax credit for contributions to the Program.</i>	
House Standing: In House Committee	Senate Standing:
Senate Bill 2SSB 5062 - <i>A consumer has the following rights regarding their personal data: access; correction; deletion; obtaining personal data they provided to the controller in a portable format; and opt out of the processing of their personal data for purposes of (1) targeted advertising, (2) the sale of personal data, or (3) profiling in furtherance of decisions that produce legal effects concerning a consumer or similarly significant effects concerning a consumer. Consumers may exercise these rights at any time. In the case of processing of personal data concerning a known child or a consumer subject to protective arrangements, the parent or legal guardian of the known child or the conservator of the consumer shall exercise these rights on their behalf.</i>	
House Standing: In House Committee	Senate Standing: Senate Floor
House Bill 1104 – <i>Extends the expiration date for the Mortgage Lending Fraud Prosecution Account and for the \$1 surcharge on deeds of trust is extended until June 30, 2027.</i>	
House Standing: Passed House	Senate Standing:
Senate Bill SSB 5025 - <i>Increases maximum civil penalties for a violation of the Consumer Protection Act (CPA). Enhances penalties that may apply to unlawful acts or practices targeting specific individuals or communities based on demographic characteristics. When a prevailing defendant under the CPA is not a small business, allows reasonable attorneys' fees to only be awarded when the state's action is found to be frivolous.</i>	
House Standing: In House Committee	Senate Standing: Passed Senate
Senate Bill 5138 - <i>Beginning August 1, 2021, the deduction of interest on investments or loans secured by first mortgages or deeds of trust for entities engaged in banking, loan, security, or other financial businesses is repealed. The statute that limited the deduction to community banks is also repealed. The interest and related fees would become fully taxable. By October 15, 2022, and each October 15th thereafter, the Department of Revenue is directed to estimate any increase in state general fund revenues as a result of repealing this deduction. After informing the state treasurer of any increase, the state treasurer must transfer that amount from the general fund into the housing trust fund beginning November 1, 2022, and by each November 1st thereafter. The Department of Revenue may not make any adjustments to the estimate after the state treasurer makes the fund transfer.</i>	
House Standing:	Senate Standing: In Senate Committee

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