

Regulatory and Legislative Recap  
April 2021

Compliance Services Group, LLC is focused on meeting your financial services compliance needs at a value proposition. We can help you implement and maintain a high-quality compliance management program for less than it costs to maintain internal expertise. We also offer compliance audit services on an independent basis for board audit and supervisory committees or on behalf of the management team. We invite you to explore our service options by visiting our [website](#) to examine what we can do for the benefit of your institution.

Our team of auditing and consulting professionals, with decades of auditing, consulting, and financial institution experience, serves over 175 financial institutions throughout the nation.

If you have any question, please [contact us](#).



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**FINAL REGULATIONS/RULES**

Effective Date	Regulation	Citation	Summary
06/30/2021	Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z): General QM Loan Definition; Delay of Mandatory Compliance Date (CFPB)	<a href="#">86 FR 22844</a>	The CFB is delaying the mandatory compliance date for the Qualified Mortgage Definition until October 1, 2022. As a reminder, last December the CFPB issued the General QM Final Rule to revise the definition of a “General QM” by eliminating the General QM loan definition’s 43 percent DTI limit and replacing it with bright-line price-based thresholds. The General QM Final Rule took effect March 1, 2021, but compliance with the new rule was not mandatory until July 1, 2021; in the intervening period, the original and revised General QM Rule are concurrently effective.
05/05/2021 - 10/31/2021	<a href="#">Geographic Targeting Order</a> (FinCEN)		FinCEN has extended its GTO requiring title insurance companies to file CTRs when real property is purchased for over \$300,000 and the purchase is not made with a bank loan or similar financing. The GTO includes 9 geographical areas, including King County Washington.
05/03/2021	Debt Collection Practices in Connection With the Global COVID-19 Pandemic (CFPB)	<a href="#">86 FR 21163</a>	The interim final rule addresses certain debt collector conduct associated with an eviction moratorium issued by the Centers for Disease Control and Prevention (CDC) in response to the global COVID-19 pandemic. The interim final rule requires that debt collectors provide written notice to certain consumers of their protections under the CDC eviction moratorium and prohibit misrepresentations about consumers' ineligibility for protection under such moratorium.
04/09/2021	<a href="#">Interagency Statement on Model Risk Management for Bank Systems Supporting Bank Secrecy Act/Anti-Money Laundering Compliance</a> (FRS, FDIC, OCC, FinCEN, NCUA)		The agencies issued a joint statement addressing how risk management principles described in the “Supervisory Guidance on Model Risk Management” relate to systems or models used by banks to assist in complying with the requirements of Bank Secrecy Act (BSA) laws and regulations. The statement further notes that it does not alter existing BSA/anti-money laundering (AML) legal or regulatory requirements or establish new supervisory expectations, and that no specific model risk management framework is required.
04/19/2021	Temporary Regulatory Relief in Response to COVID-19-Prompt Corrective Action (NCUA)	<a href="#">86 FR 20258</a>	The NCUA is making two temporary changes to its prompt corrective action (PCA) regulations to help ensure that federally insured credit unions (FICUs) remain operational and liquid during the COVID-19 pandemic. The first amends these regulations to temporarily enable the NCUA to issue an order applicable to all FICUs to waive the earnings-retention requirement for any FICU that is classified as adequately capitalized. The second modifies these regulations with respect to the specific documentation required for net worth restoration plans (NWRPs) for FICUs that become

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			undercapitalized. These temporary modifications will be in place until March 31, 2022. This rule is substantially similar to an interim final rule that the Board published on May 28, 2020. <b>This rule is effective on April 19, 2021. Comments must be received on or before June 18, 2021.</b>
04/07/2021	Bulletin 2021-02: Supervision and Enforcement Priorities Regarding Housing Insecurity (CFPB)	<a href="#">86 FR 17897</a>	The CFPB is issuing this Compliance Bulletin and Policy Guidance (Bulletin) on Supervision and Enforcement priorities regarding housing insecurity in light of heightened risks to consumers needing loss mitigation assistance in the coming months as the COVID-19 foreclosure moratoriums and forbearances end. Consequently, the CFPB will be paying particular attention to how mortgage servicers respond to borrower requests for loss mitigation assistance and process loss mitigation applications. The CFPB urges servicers to dedicate sufficient resources and staff to ensure they can communicate clearly with borrowers, effectively manage borrower requests for assistance, promote loss mitigation, and ultimately reduce avoidable foreclosures and foreclosure-related costs. Accordingly, the CFPB intends to consider a servicer's overall effectiveness at achieving such goals, along with other relevant factors, in using its discretion to address violations of Federal consumer financial law in supervisory and enforcement matters. The Bureau recognizes that some homeowners will not be able to resume making payments on their mortgages and that some foreclosures are unavoidable; nonetheless, the Bureau will hold mortgage servicers accountable for complying with Regulation X with the aim of ensuring that homeowners have the opportunity to be evaluated for loss mitigation prior to the initiation of foreclosure.
04/01/2021	Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act (CFPB)	<a href="#">86 FR 17692</a>	The Bureau hereby rescinds, as of April 1, 2021, the <a href="#">Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act</a> and instructs all financial institutions required to file quarterly to do so beginning with their 2021 first quarter data, due on or before May 31, 2021, for all covered loans and applications with a final action taken date between January 1 and March 31, 2021. The Bureau does not intend to cite in an examination or initiate an enforcement action against any entity that did not make the quarterly filing for data collected in 2020.
04/01/2021	Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Bureau Information Collections for Credit Card and Prepaid Account Issuers	<a href="#">86 FR 17693</a>	The Bureau hereby rescinds, as of April 1, 2021, the <a href="#">Statement on Supervisory and Enforcement Practices Regarding Bureau Information Collections for Credit Card and Prepaid Account Issuers</a> and instructs all financial institutions required to file to do so as prescribed under Regulation Z (126.57 & 1026.58)

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	(CFPB)		
04/01/2021	Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act (CFPB)	<a href="#">86 FR 17695</a>	The Bureau hereby rescinds, as of April 1, 2021, the portion of the <a href="#">Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act</a> that sets forth the Bureau's flexible supervisory and enforcement approach during the pandemic regarding compliance with FCRA and Regulation V, and announces its intent to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and FCRA and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau. This rescission does not apply to the portion of the Statement that is under the heading "Furnishing Consumer Information Impacted by COVID-19."
04/01/2021	Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Regulation Z Billing Error Resolution Timeframes in Light of the COVID-19 Pandemic (CFPB)	<a href="#">86 FR 17697</a>	The Bureau hereby rescinds, as of April 1, 2021, the <a href="#">Statement on Supervisory and Enforcement Practices Regarding Regulation Z Billing Error Resolution Timeframes in Light of the COVID-19 Pandemic</a> and announces its intent to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau.
04/01/2021	Rescission of Statement of Policy on Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID-19 Pandemic (CFPB)	<a href="#">86 FR 17698</a>	The Bureau hereby rescinds, as of April 1, 2021, the <a href="#">Statement on Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID-19 Pandemic</a> and announces its intent to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau.
04/01/2021	Rescission of Statement of Policy on Bureau Supervisory and Enforcement Response to COVID-19 Pandemic (CFPB)	<a href="#">86 FR 17699</a>	The Bureau hereby rescinds, as of April 1, 2021, the <a href="#">Statement on Bureau Supervisory and Enforcement Response to COVID-19 Pandemic</a> and announces its intent to exercise its supervisory and enforcement authority consistent with the Dodd-Frank Act and with the full authority afforded by Congress consistent with the statutory purpose and objectives of the Bureau.

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**PROPOSED REGULATIONS**

Comments Due	Regulation	Citation	Summary
06/11/2021	Request for Information and Comment: Extent to Which Model Risk Management Principles Support Compliance with Bank Secrecy Act/Anti-Money Laundering and Office of Foreign Assets Control Requirements (OCC, FRS, FDIC, NCUA, FinCEN)	<a href="#">86 FR 18978</a>	The aim of the RFI is to enhance the agencies' understanding of institutions' practices with respect to BSA/AML and OFAC compliance and determine whether additional explanation or clarification may increase transparency, effectiveness, or efficiency.
05/05/2021	Beneficial Ownership Information Reporting Requirements (FinCEN)	<a href="#">86 FR 17557</a>	This ANPRM seeks initial public input on procedures and standards for reporting companies to submit information to FinCEN about their beneficial owners (the individual natural persons who ultimately own or control the reporting companies) as required by the CTA. This ANPRM also seeks initial public input on FinCEN's implementation of the related provisions of the CTA that govern FinCEN's maintenance and disclosure of beneficial ownership information subject to appropriate protocols.
05/19/2021	Fair Debt Collection Practices (delay of effective date) (CFPB)	<a href="#">86 FR 20334</a>	In 2020, the Bureau of Consumer Financial Protection (Bureau) finalized two rules titled Debt Collection Practices (Regulation F). The rules revise Regulation F, which implements the Fair Debt Collection Practices Act (FDCPA). Both final rules have an effective date of November 30, 2021. The Bureau is proposing to extend that effective date by 60 days, until January 29, 2022.
05/10/2021	Protections for Borrowers Affected by the COVID-19 Emergency Under RESPA (CFPB)	<a href="#">86 FR 18840</a>	The proposed amendments would establish a temporary COVID-19 emergency pre-foreclosure review period until December 31, 2021, for principal residences. In addition, the proposed amendments would temporarily permit mortgage servicers to offer certain loan modifications made available to borrowers experiencing a COVID-19-related hardship based on the evaluation of an incomplete application.

**RESOURCES/GUIDANCE**

Guidance	Summary

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<a href="#">Consumer Compliance Outlook</a> (FRB)	<p>The Federal Reserve published its first issue of the Consumer Compliance Outlook for 2021. Included are articles on: Technological Innovation Is Essential to the Future of Community Banking in America, Understanding Regulation Z's Advertising Requirements, Compliance Alert: Agencies Issue Statements on LIBOR Transition, News from Washington: Regulatory Updates, On the Docket: Recent Federal Court Opinions</p>
<a href="#">Debt Collection Rule Small Entity Compliance Guide</a> (CFPB)	<p>The CFPB has updated its Small Entity Compliance Guide on the Debt Collection Final Rules to reflect changes from a December 2020 final rule, which addressed passive debt collection, time-barred debt and required validation notices to consumers. The CFPB earlier this month proposed to extend the effective date of this both rule and an October 2020 final debt collection rule from November 30 to January 29, 2022.</p>
<a href="#">Fair Lending Report of the Bureau of Consumer Financial Protection</a> (CFPB)	<p>The report outlines the CFPB's efforts in 2020 to fulfill its fair lending mandate, while protecting consumers against the resulting economic consequences of the Covid-19 pandemic. According to the report, the Bureau continued to focus on promoting fair, equitable, and nondiscriminatory access to credit, highlighting several fair lending priorities that continued from years past such as mortgage origination, small business lending, and student loan origination.</p>
<a href="#">Risk Management Manual of Examination Policies</a> (FDIC)	<p>The FDIC updated Section 20.1 – Risk-Focused, Forward-Looking Safety and Soundness to address management concurrence requirements for changes in examination scope.</p>
<a href="#">Consumer Compliance Examination Manual</a> (FDIC)	<p>The FDIC made multiple changes to its Examination Manual, including examination planning procedures to conform to the revised examination risk scoping document, known as the Assessment of Risk of Consumer Harm (ARCH), updating workpapers and violation codes, updating the pre-examination packets, and the GLBA examination checklist.</p>
<a href="#">Allowances for Credit Losses</a> OCC Bulletin 2021-20 (OCC)	<p>The OCC issued a new "Allowances for Credit Losses" booklet for its Comptroller's Handbook. The booklet provides examiners with information and examination procedures regarding allowances for credit losses</p>

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**Oregon State Legislature: As of April 30, 2021**

<a href="#">Senate Bill 209</a> - 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: In House Committee	Senate Standing: <b>Passed Senate</b>
<a href="#">Senate Bill 210</a> - 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: In House Committee	Senate Standing: <b>Passed Senate</b>
<a href="#">Senate Bill 339</a> - 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
<a href="#">House Bill 2268</a> - 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
<a href="#">House Bill 2356</a> - 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
<a href="#">House Bill 2563</a> - 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: As of April 30, 2021**

<a href="#">Senate Bill 5106</a> - 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: <b>Passed House</b>	Senate Standing: <b>Passed Senate</b>
<b>Governor signed – Effective date 07/25/2021</b>	
<b>Summary:</b> 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.	
<a href="#">House Bill 1104</a> – 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.	
House Standing: <b>Passed House</b>	Senate Standing: <b>Passed Senate</b>
<b>Governor signed – Effective date 04/14/2021</b>	

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<b>Summary of Bill:</b> The expiration date for the Mortgage Lending Fraud Prosecution Account and the \$1 surcharge on deeds of trust is extended until June 30, 2027.	
<a href="#">Senate Bill SSB 5025</a> - 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.	
House Standing: <b>Passed House</b>	Senate Standing: <b>Passed Senate</b>



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### Websites & ADA

The Ninth Circuit Court of Appeals issued a decision in January of 2019, concluding that the websites created and maintained by places of public accommodation must comply with the ADA. The ruling cited a “nexus standard” which made the websites and mobile apps places of public accommodation when there was a nexus to a brick-and-mortar store.

On April 7th, 2021, the Eleventh Circuit Court of Appeals issued a decision rejecting the nexus standard and diverging from rulings in several other district courts which have consistently given websites the status of places of public accommodation for the purposes of ADA compliance.

While there is a lack of clarity within the courts, it is prudent to consider the accessibility of a website under the Web Content Accessibility Guidelines (WCAG) 2.1 to Level AA standard. Alternatively, public accommodation with an inaccessible website may meet its legal obligations by providing an accessible alternative for individuals to enjoy its goods or services, such as a staffed telephone information line. However, such an alternative must provide an equal degree of access in terms of hours of operation and range of options and programs available. For example, if retail goods or bank services are posted on an inaccessible website that is available 24 hours a day, 7 days a week to individuals without disabilities, then the alternative accessible method must also be available 24 hours a day, 7 days a week.

### TCPA

The Supreme Court [determined](#) that in order to qualify as an automatic telephone dialing system (ATDS), a device must have the capacity either to store a telephone number using a random or sequential number generator, or to produce a telephone number using a random or sequential number generator. To be an autodialer, “in all cases, whether storing or producing numbers to be called, the equipment in question must use a random or sequential number generator.”

There are still questions to be answered, and institutions are still required to obtain a consumer’s **express written consent** before making a telemarketing calls/texts to a mobile phone and the consumer’s **prior express consent** (oral or written) for non-telemarketing (informational) calls/texts to a mobile phone, if the calls are made from an ATDS.

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