

Regulatory and Legislative Recap
June 2021

Get ready for BSA changes -

The Financial Crimes Enforcement Network (FinCEN) issued the first government-wide priorities for anti-money laundering and countering the financing of terrorism (AML/CFT) policy (the “Priorities”), following consultation with other relevant Department of the Treasury offices, as well as Federal and State regulators, law enforcement, and national security agencies. The Priorities identify and describe the most significant AML/CFT threats currently facing the United States. FinCEN today also issued two statements, in coordination with other regulators, to provide guidance to certain covered financial institutions on the applicability of the Priorities at this time, before regulations are promulgated.

The Priorities, and accompanying AML/CFT Priorities Statements, are issued pursuant to the Anti-Money Laundering Act of 2020 and are intended to assist covered institutions in their AML/CFT efforts and enable those institutions to prioritize the use of their compliance resources.

News Release: <https://www.fincen.gov/news/news-releases/fincen-issues-first-national-amlcft-priorities-and-accompanying-statements>

The Priorities:

[https://www.fincen.gov/sites/default/files/shared/AML_CFT%20Priorities%20\(June%2030%2C%202021\).pdf](https://www.fincen.gov/sites/default/files/shared/AML_CFT%20Priorities%20(June%2030%2C%202021).pdf)

Statement for Banks:

[https://www.fincen.gov/sites/default/files/shared/Statement%20for%20Banks%20\(June%2030%2C%202021\).pdf](https://www.fincen.gov/sites/default/files/shared/Statement%20for%20Banks%20(June%2030%2C%202021).pdf)

Statement for Non-Bank Financial Institutions:

[https://www.fincen.gov/sites/default/files/shared/Statement%20for%20Non-Bank%20Financial%20Institutions%20\(June%2030%2C%202021\).pdf](https://www.fincen.gov/sites/default/files/shared/Statement%20for%20Non-Bank%20Financial%20Institutions%20(June%2030%2C%202021).pdf)

Additional information on FinCEN’s ongoing efforts related to the Anti-Money Laundering Act of 2020 can be found at a dedicated page on FinCEN’s website: <https://www.fincen.gov/anti-money-laundering-act-2020>

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FINAL REGULATIONS/RULES

| Effective Date | Rule (Agency) | Citation | Summary |
|----------------|---|-----------------------------|---|
| 06/23/2021 | Examinations for Risks to Active-Duty Servicemembers and Their Covered Dependents Interpretive Rule (CFPB) | 86 FR 32723 | The Interpretive Rule explains the basis for the CFPB's statutory authority to conduct examinations regarding the risks to active-duty servicemembers and their covered dependents that are presented by conduct that violates the Military Lending Act. |
| 08/23/2021 | Statement of Policy Regarding Minority Depository Institutions (FDIC) | 86 FR 32728 | The Statement of Policy updates, strengthens, and clarifies the agency's policies and procedures related to minority depository institutions. |
| 07/29/2021 | Regulation D: Reserve Requirements of Depository Institutions (FRS) | 86 FR 29937 | The Board of Governors of the Federal Reserve System is adopting amendments to Regulation D to eliminate references to an "interest on required reserves" rate and to an "interest on excess reserves" rate and replace them with a reference to a single "interest on reserve balances" rate; and to simplify the formula used to calculate the amount of interest paid on balances maintained by or on behalf of eligible institutions in master accounts at Federal Reserve Banks, and to make other conforming amendments. |
| 08/31/2021 | Protections for Borrowers Affected by the COVID-19 Emergency Under the Real Estate Settlement Procedures Act (RESPA), Regulation X (CFPB) | 86 FR 34848 | The CFPB finalized a rule to facilitate streamlined loan modification efforts and establish a temporary COVID-19 emergency pre-foreclosure period under Regulation X that would prohibit servicers from making the first notice or filing required to initiate foreclosure until Dec. 31. This "pre-foreclosure" period would apply to mortgage loans secured by the borrower's principal residence. The final rule will also temporarily allow 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. It also requires servicers to discuss specific additional COVID-19-related information as part of their early intervention obligations; clarifies servicers' reasonable diligences when the borrower is in a short-term payment forbearance program made available to a borrower experiencing a COVID-19-related hardship based on the evaluation of an incomplete application; and offers a definition of "COVID-19-related hardship." (Executive Summary, Unofficial Redline) |
| 07/30/2021 | Capitalization of Interest in Connection with Loan | 86 FR 34611 | The NCUA is amending its regulations to remove the prohibition on the capitalization of interest in connection with loan workouts and modifications. The final rule also establishes documentation |

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| | Workouts and Modifications (NCUA) | | requirements to help ensure that the addition of unpaid interest to the principal balance of a mortgage loan does not hinder the borrower's ability to become current on the loan. |
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PROPOSED REGULATIONS

| Comments Due | Rule (Agency) | Citation | Summary |
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| 07/26/2021 | Real Estate Lending Standards (FDIC) | 86 FR 33570 | The FDIC is inviting comment on the proposed rule to amend Interagency Guidelines for Real Estate Lending Policies (Real Estate Lending Standards). The purpose of the proposed rule is to align the Real Estate Lending Standards with the community bank leverage ratio (CBLR) rule, which does not require electing institutions to calculate tier 2 capital or total capital. The proposed rule would allow a consistent approach for calculating the ratio of loans in excess of the supervisory loan-to-value limits (LTV Limits) at all FDIC-supervised institutions, using a methodology that approximates the historical methodology the FDIC has followed for calculating this measurement without requiring institutions to calculate tier 2 capital. The proposed rule would also avoid any regulatory burden that could arise if an FDIC-supervised institution subsequently decides to switch between different capital frameworks. |
| 08/10/2021 | Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers Through Fedwire (FRS) | 86 FR 31376 | The Board is proposing amendments to Regulation J to govern funds transfers through the Federal Reserve Banks' (Reserve Banks) new FedNow Service by establishing a new subpart C. The Board is also proposing changes and clarifications to subpart B, governing the Fedwire Funds Service, to reflect the fact that the Reserve Banks will be operating a second funds transfer service in addition to the Fedwire Funds Service, as well as proposing technical corrections to subpart A, governing the check service. |
| 08/24/2021 | Reinstatement of HUD's Discriminatory Effects Standard (HUD) | 86 FR 33590 | In 2020, HUD published a rule titled "HUD's Implementation of the Fair Housing Act's Disparate Impact Standard" ("2020 Rule"). Prior to the effective date of the 2020 rule, the U.S. District Court for the District of Massachusetts issued a preliminary injunction in Massachusetts Fair Housing Center v. HUD, staying HUD's implementation and enforcement of the rule. Consequently, the 2020 Rule never took effect. After reconsidering the 2020 Rule, HUD is proposing to recodify its previously promulgated rule titled, "Implementation of the Fair Housing Act's Discriminatory Effects Standard" ("2013 Rule"), which, as of the date of publication of this Proposed Rule, remains in effect due to the preliminary injunction. HUD believes the 2013 Rule better states Fair Housing Act jurisprudence and is more consistent with the Fair Housing Act's remedial purposes. |

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RESOURCES/GUIDANCE

| Guidance | Summary |
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| Revision of the Operations Booklet and Name Change to Architecture, Infrastructure, and Operations Booklet (FFIEC) | The Federal Financial Institutions Examination Council (FFIEC) issued a new booklet in the FFIEC Information Technology Examination Handbook series, titled “Architecture, Infrastructure, and Operations.” The booklet provides expanded guidance to help financial institution examiners assess the risk profile and adequacy of an entity’s information technology architecture, infrastructure, and operations. The new booklet replaces the “Operations” booklet issued in July 2004 and it provides examiners with fundamental examination expectations regarding architecture and infrastructure planning, governance and risk management, and operations of regulated entities. |
| AML/CTF Priorities (FinCEN) | The FinCEN issued the first government-wide priorities for anti-money laundering and countering the financing of terrorism (AML/CFT) policy (the “Priorities”). The Priorities identify and describe the most significant AML/CFT threats currently facing the United States. FinCEN today also issued two statements, in coordination with other regulators, to provide guidance to certain covered financial institutions (banks, non-bank financial institutions) on the applicability of the Priorities at this time, before regulations are promulgated. (Published June 30, 2021) |
| Supervisory Highlights (CFPB) | The CFPB issued its latest issue of Supervisory Highlights focusing on recent examiner observations of several financial products. Among other things, examiners flagged issues related to consumer reporting, debt collection and payday lending. Examiners identified several issues related to consumer reporting, including failure by consumer reporting companies to comply with accuracy procedures; failing to place security freezes on consumer’s reports; and failing to update and correct consumer information. |
| Mortgage Servicing FAQs (CFPB) | The Bureau released a set of FAQs that discuss certain topics relating to escrow accounts under Regulation X. The FAQs provide a general overview of the escrow account provisions in Regulation X, and they address topics such as deficiencies, shortages, and surpluses. |
| EFT FAQs (CFPB) | The Bureau issued FAQs regarding the unauthorized transfer and error resolution provisions under the Electronic Fund Transfer Act and Regulation E, including situations when a consumer is fraudulently induced by a third party to provide their account information or private network rules conflict with the regulation |
| 21-RA-07 Equal Credit Opportunity Act (NCUA) | The Regulatory Alert reiterates the CFPB’s March 16, 2021 Interpretive Rule which clarifies that the prohibition against sex discrimination in the ECOA encompasses discrimination based on sexual orientation and gender identity discrimination. |
| Letter to Credit Unions 21-CU-04 Renewal of Prompt Corrective Action Relief | Due to the continued impact of COVID, the NCUA has reintroduced two temporary changes to its Prompt Corrective Action regulation. The first change allows the NCUA to waive the earnings-retention requirements for adequately capitalized credit unions. The second change allows a credit union that experienced a decline in its net worth ratio due predominantly to temporary share growth may submit a streamlined net worth restoration plan. |

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| (NCUA) | |
| HMDA Data Publication (FFIEC) | The Federal Financial Institutions Examination Council announced the availability of data on 2020 mortgage lending transactions at 4,475 U.S. financial institutions reported under the Home Mortgage Disclosure Act (HMDA). The HMDA Maps Tool is available here . Covered institutions include banks, savings associations, credit unions, and mortgage companies. |
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Oregon State Legislature: As of June 30, 2021

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| 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: Passed House | Senate Standing: Passed Senate |
| Governor Signed – Effective 01/01/2022 | |
| 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: Passed House | Senate Standing: Passed Senate |
| Governor Signed – Effective 01/01/2022 | |



COMPLIANCE SERVICES GROUP

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