Regulatory and Legislative Recap
July 2021

On July 19, the OCC, FDIC, and Federal Reserve published in the Federal Register, *Proposed Interagency Guidance on Third-Party Relationships: Risk Management*.

The proposed guidance would offer a framework based on sound risk management principles for banking organizations to consider in developing risk management practices for all stages in the life cycle of third-party relationships that considers the level of risk, complexity, and size of the banking organization and the nature of the third-party relationship.

The proposed guidance sets forth considerations with respect to the management of risks arising from third-party relationships. The proposed guidance would replace each agency's existing guidance on this topic and would be directed to all banking organizations supervised by the agencies.

The proposed guidance Discusses the third-party risk management life cycle and identifies principles applicable to each stage of the life cycle, including: (1) Developing a plan that outlines the banking organization's strategy, identifies the inherent risks of the activity with the third party, and details how the banking organization will identify, assess, select, and oversee the third party; (2) performing proper due diligence in selecting a third party; (3) negotiating written contracts that articulate the rights and responsibilities of all parties; (4) having the board of directors and management oversee the banking organization's risk management processes, maintaining documentation and reporting for oversight accountability, and engaging in independent reviews; (5) conducting ongoing monitoring of the third party's activities and performance; and (6) developing contingency plans for terminating the relationship in an effective manner.

The agencies are seeking feedback on the proposed guidance including 18 specific questions called out in the publication. Comments are due September 17, 2021.

We recommend reviewing the proposed guidance to see if your institution is checking all the boxes in managing the risks involved with third-party service providers. As always, if you have any questions, contact us.

FINAL REGULATIONS/RULES

Effective Date	Rule (Agency)	Citation	Summary
08/02/2021	Transition to the Current Expected Credit Loss Methodology (NCUA)	86 FR 34924	This final rule facilitates the transition of federally insured credit unions (FICUs) to the current expected credit loss (CECL) methodology required under Generally Accepted Accounting Principles (GAAP). The final rule provides that, for purposes of determining a FICU's net worth classification under the prompt corrective action (PCA) regulations, the Board will phase-in the day-one adverse effects on regulatory capital that may result from adoption of CECL. Consistent with regulations issued by the other federal banking agencies, the final rule will temporarily mitigate the adverse PCA consequences of the day-one capital adjustments, while requiring that FICUs account for CECL for other purposes, such as Call Reports. The final rule also provides that FICUs with less than $10 million in assets are no longer required to determine their charges for loan losses in accordance with GAAP. These FICUs may instead use any reasonable reserve methodology (incurred loss), provided that it adequately covers known and probable loan losses.
07/23/2021	Regulation D: Reserve Requirements of Depository Institutions (FRS)	86 FR 38905	The Federal Reserve System is amending Regulation D, Reserve Requirements of Depository Institutions to revise the rate of interest paid on balances maintained to satisfy reserve balance requirements ("IORR") and the rate of interest paid on excess balances ("IOER") maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORR is 0.15 percent and IOER is 0.15 percent, a 0.05 percentage point increase from their prior levels.
TBD	Simplification of Deposit Insurance Rules (FDIC)	TBD	The FDIC is issuing a proposed rule which would merge the revocable and irrevocable trusts categories into a new "trust accounts" category. A depositor's trust accounts would be insured in an amount up to $250,000 multiplied by the number of trust beneficiaries, not to exceed five—effectively limiting FDIC coverage for each grantor's trust deposits to a total of $1,250,000.

PROPOSED REGULATIONS

Comments Due	Rule (Agency)	Citation	Summary
12/20/2021	Credit Risk Retention-Notification of Extension of Review Period (OCC, FRS, FDIC, FHFA,	86 FR 38607	The agencies are providing notice of the extension of the period for the review, and publication of determination of the review, of the definition of qualified residential mortgage; the community-focused residential mortgage exemption; and the exemption for qualifying three-to-four unit residential mortgage loans, in each case as currently set forth in the Credit Risk Retention

	SEC, HUD)		Regulations as adopted by the agencies.

RESOURCES/GUIDANCE

Guidance	Summary
Consumer Compliance Outlook (FRS)	2021's second issue includes articles on Error Resolution and Liability Limitations Under Regulations E and Z: Regulatory Requirements, Common Violations, and Sound Practices; Error Resolution and Liability Limits for Prepaid Accounts and Foreign Remittance Transfers; Compliance Alert: Consumer Financial Protection Bureau Discusses Expectations for Servicers; among other topics.
Bulletin 2021-03: Consumer Reporting of Rental Information (CFPB)	The CFPB is issuing this Enforcement compliance bulletin and policy guidance regarding consumer reporting of rental information in light of upcoming heightened risks to renters associated with inaccurate consumer reporting information. As pandemic-related government interventions aimed at protecting renters begin to expire over the coming months, the Bureau will be paying particular attention to consumer reporting agencies' (CRAs') and furnishers' compliance with their accuracy and dispute obligations under the Fair Credit Reporting Act (FCRA) and Regulation V with respect to rental information. The Bureau will hold CRAs and furnishers accountable for failing to comply with the FCRA and Regulation V. The economic recovery of renters and their ability to secure new rental housing should not be impeded by noncompliance with the law.
Proposed Interagency Guidance on Third-Party Relationships: Risk Management (FRS, FDIC, OCC)	The agencies invite comment on proposed guidance on managing risks associated with third-party relationships. The proposed guidance would offer a framework based on sound risk management principles for banking organizations to consider in developing risk management practices for all stages in the life cycle of third-party relationships that takes into account the level of risk, complexity, and size of the banking organization and the nature of the third-party relationship. The proposed guidance sets forth considerations with respect to the management of risks arising from third-party relationships. The proposed guidance would replace each agency's existing guidance on this topic and would be directed to all banking organizations supervised by the agencies.
Fair Lending Policy Statement (FHFA)	The Federal Housing Finance Agency issued a policy statement on Fair Lending to communicate the agency's general position on monitoring and information gathering, supervisory examinations, and administrative enforcement related to the Equal Credit Opportunity Act, the Fair Housing Act, and the Federal Housing Enterprises Financial Safety and Soundness Act.
Jurisdictions with AML/CFT/CPF Deficiencies (FinCEN)	As part of the FATF's listing and monitoring process to ensure compliance with international standards, the FATF issued two statements: (1) High-Risk Jurisdictions Subject to a Call for Action, which identifies jurisdictions with significant strategic deficiencies in AML/CFT/CPF regimes and calls on all FATF members to apply enhanced due diligence, and in the most serious cases, apply counter-measures to protect the international financial system from the money laundering, terrorist financing, and the proliferation of financing risks emanating from the identified countries; and (2) Jurisdictions under Increased Monitoring, which publicly identifies jurisdictions with strategic deficiencies in AML/CFT/CPF regimes that have committed to, or are actively working with, the FATF to address those deficiencies in accordance with an agreed upon timeline.

Money Laundering from Environmental Crime (FATF)	The Financial Action Task Force published a report that looks at the methods that criminals use to launder the proceeds of environmental crime. When properly implemented, the FATF Recommendations provide effective tools to stop these illicit financial flows.
NCUA to Implement Phase One of Resuming Onsite Operations (NCUA)	The NCUA announced that it is moving into Phase 1 of its plan to resume onsite operations. NCUA staff and contractors will be permitted to volunteer to work onsite at credit unions beginning July 19, 2021. During Phase 1, staff may only volunteer to work onsite in locations where public health data indicates pandemic conditions have sufficiently moderated.
Risk Management Manual (FDIC)	Updates to Section 4.1 include enhancements to discussions on dominant official, key person dependency risk, strategic planning, and selecting and retaining competent management.

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No Legal Advice Intended
The information contained is provided as a service to our clients and visitors. The contents of this Recap may convey information that can be characterized as “law related services” as defined by Rule 5.7 of the Rules of Professional Conduct (“RPC”) governing lawyers, but should not be construed as, and is not intended to be legal services, legal advice, or forming a client-lawyer relationship. Since CSG is not engaged in the practice of law, neither our services nor our relationship will be governed by the RPCs governing lawyers including, but not limited to, specific RPC rules applicable to privileged communications and prohibitions of conflicts of interest.