

Regulatory and Legislative Recap
November 2021

FINAL REGULATIONS/RULES

| Effective Date | Rule (Agency) | Citation | Summary |
|----------------|--|-----------------------------|---|
| 04/01/2022 | Computer Security Incidents Notification (FDIC, Fed Res, OCC) | 86 FR 66424 | The agencies issued a final rule requiring banks to notify their federal regulators of certain cyber incidents with potentially systemic impacts. The rule is set to take effect April 1, 2022, with compliance required by May 1. (Blog Post) |
| 12/27/2021 | Chartering and Field of Membership-Shared Facility Requirements (NCUA) | 86 FR 66927 | The NCUA adopted a final rule amending its chartering and field of membership rules to modernize requirements related to service facilities for multiple common bond federal credit unions. The final rule provides that shared locations are service facilities for purposes of MCB FCU additions of groups, regardless of whether the FCU has an ownership interest in the shared branching network providing the locations. Shared locations, including electronic facilities offering required services such as video teller machines, are also service facilities for purposes of MCB FCU additions of underserved areas, regardless of whether the FCU has an ownership interest. The final rule does not include other changes proposed to the definition of service facility; accordingly, ATMs continue to be excluded from the definition of service facility for additions of underserved areas. |
| 01/01/2022 | Fair Credit Reporting Act Disclosures (CFPB) | 86 FR 67649 | The maximum amount a credit bureau can charge a consumer for a credit report increases to \$13.50, from \$13.00 in 2021. |
| 11/10/2021 | Fair Credit Reporting; Name-Only Matching Procedures (CFPB) | 86 FR 62468 | The CFPB issued this advisory opinion to highlight that a consumer reporting agency that uses inadequate matching procedures to match information to consumers, including name-only matching (i.e., matching information to the particular consumer who is the subject of a consumer report based solely on whether the consumer's first and last names are identical or similar to the names associated with the information), in preparing consumer reports is not using reasonable procedures to assure maximum possible accuracy under section 607(b) of the Fair Credit Reporting Act (FCRA). |
| 01/01/2022 | Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA, and | 86 FR 60357 | <ul style="list-style-type: none"> • For open-end consumer credit plans under TILA, the threshold that triggers requirements to disclose minimum interest charges will remain unchanged at \$1.00 in 2022. • For open-end consumer credit plans under the CARD Act, the adjusted dollar amount in 2022 for the safe harbor for a first violation penalty fee will increase to |

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| | <p>Qualified Mortgages) (CFPB)</p> | | <p>\$30 and the adjusted dollar amount for the safe harbor for a subsequent violation penalty fee will increase to \$41.</p> <ul style="list-style-type: none"> • For HOEPA loans, the adjusted total loan amount threshold for high-cost mortgages in 2022 will be \$22,969. • The adjusted points-and-fees dollar trigger for high-cost mortgages in 2022 will be \$1,148. For qualified mortgages (QMs) under the General QM loan definition in § 1026.43(e)(2), the thresholds for the spread between the annual percentage rate (APR) and the average prime offer rate (APOR) in 2022 will be: 2.25 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to \$114,847; 3.5 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to \$68,908 but less than \$114,847; 6.5 or more percentage points for a first-lien covered transaction with a loan amount less than \$68,908; 6.5 or more percentage points for a first-lien covered transaction secured by a manufactured home with a loan amount less than \$114,847; 3.5 or more percentage points for a subordinate-lien covered transaction with a loan amount greater than or equal to \$68,908; or 6.5 or more percentage points for a subordinate-lien covered transaction with a loan amount less than \$68,908. For all categories of QMs, the thresholds for total points and fees in 2022 will be 3 percent of the total loan amount for a loan greater than or equal to \$114,847; \$3,445 for a loan amount greater than or equal to \$68,908 but less than \$114,847; 5 percent of the total loan amount for a loan greater than or equal to \$22,969 but less than \$68,908; \$1,148 for a loan amount greater than or equal to \$14,356 but less than \$22,969; and 8 percent of the total loan amount for a loan amount less than \$14,356. |
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PROPOSED REGULATIONS

| Comments Due | Rule (Agency) | Citation | Summary |
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RESOURCES/GUIDANCE

| Guidance | Summary |
|---|---|
| Elder Financial Exploitation Advisory (CFPB) | The advisory includes information about developing policies, procedures, and training for implementing trusted contacts for reporting elder financial exploitation. |
| Authority of a Bank to Engage in Certain Cryptocurrency Activities Interp Letter 1179 (OCC) | The OCC published <i>Interpretive Letter #1179</i> clarifying the authority of a bank to engage in certain cryptocurrency activities, provided the bank can demonstrate, to the satisfaction of the OCC, that it has controls in place to conduct the activity in a safe and sound manner. The Letter states that among the legally permissible activities – after approval by the OCC, are the provision of cryptocurrency custody services; the holding of dollar deposits serving as reserves to back stablecoins in certain circumstances; acting as nodes on an independent node verification network to verify customer payments; and engaging in certain stablecoin activities to facilitate payment transactions on a distributed ledger. |
| CRA Data Entry Software (FFIEC) | Version 2021 of the calendar year 2021 Community Reinvestment Act (CRA) data entry software (DES) for data due March 1 of next year is now available. The DES is designed by the Federal Reserve to help banks automate the filing of CRA data. |
| Meeting Flexibility 21-FCU-06 (NCUA) | The NCUA published Letter to Federal Credit Unions, 21-FCU-06, extending the flexibility for federal credit unions to conduct meetings virtually in 2022. The Letter states that if federal credit unions have adopted the provided proposed amendment, it is appropriate to invoke its provisions at any point in 2022 for meetings occurring during the year. |
| Environmental Crimes and Related Financial Activity FIN-2021-NTC4 (FinCEN) | The Financial Crimes Enforcement Network issued notice FIN-2021-NTC4 calling attention to an upward trend in environmental crimes and associated illicit financial activity. The Notice provides financial institutions with specific suspicious activity report (SAR) filing instructions and highlights the likelihood of illicit financial activity related to several types of environmental crimes. |
| Cambodia Business Advisory on High-Risk Investments and Interactions (State Dept, Treasury, Commerce Dept) | The agencies issued an advisory to caution U.S. businesses currently operating in or considering operating in Cambodia to be mindful of interactions with entities and sectors potentially involved in human rights abuses, criminal activities, and corrupt business practices. The advisory addresses two primary areas of risk exposure for U.S. companies: (1) illicit finance activities in Cambodia and related risks for the financial, real estate, casino, and infrastructure sectors, and (2) involvement with Cambodian entities involved in trafficking in persons, wildlife, and narcotics trafficking in Cambodia and related risks for the manufacturing and timber sectors. |

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| <p>Advisory on Ransomware and the Use of the Financial System to Facilitate Ransom Payments (FinCEN)</p> | <p>FinCEN issued Advisory FIN-2021-A004, which updates its October 2020 Advisory, as a result of the increase of ransomware attacks in recent months against critical U.S. infrastructure. The updated advisory discusses new trends and typologies of ransomware and associated payments, including the growing use of anonymity-enhanced cryptocurrencies (AECs) and decentralized exchanges to convert illicit proceeds. It also includes financial red flag indicators of ransomware-related activity to assist financial institutions in identifying and reporting suspicious transactions associated with ransomware payments.</p> |
| <p>Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the Continuing COVID-19 Pandemic and CARES Act (CFPB, Fed Res, FDIC, NCUA)</p> | <p>The agencies issued a <i>Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the Continuing COVID-19 Pandemic and CARES Act</i>. The Statement says that the agencies believe the temporary flexibilities authorized in April 2020 are no longer necessary, as servicers have now had “sufficient time” to adjust operations and work with consumers affected by the pandemic. The regulators added that they will resume using their enforcement authority to address noncompliance for violations of Regulation X mortgage servicing rules starting after the date of the joint statement. In conjunction with the Statement, the CFPB released a report on its efforts to assist borrowers during the COVID-19 pandemic.</p> |
| <p>Subordinated Debt Final Rule 21-CU-13 (NCUA)</p> | <p>The NCUA issued a Letter to Credit Unions serves as a reminder to all federally insured credit unions that the final subordinated debt rule becomes effective on January 1, 2022. The final rule amends 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.</p> |
| <p>Automated Cybersecurity Evaluation Toolbox (NCUA)</p> | <p>The NCUA launched its new Cybersecurity Resource Center which includes an updated Automated Cybersecurity Evaluation Toolbox (ACET) for credit unions to use when assessing their cybersecurity maturity.</p> |
| <p>Climate Change (Federal Reserve)</p> | <p>The FR announced that they are supporting the Glasgow Declaration by the Network of Central Banks and Supervisors for Greening the Financial System. The announcement included “The Federal Reserve will address climate-related risks in an analytically rigorous, transparent, and collaborative way through our domestic work with other federal agencies including the Financial Stability Oversight Council; our international engagement through the Financial Stability Board, the Basel Committee on Banking Supervision, and the NGFS; and through our broad and transparent engagement with the private sector.”</p> |

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| Security Safeguards (FTC) | The FTC's updated Safeguards Rule requires non-banking financial institutions, such as mortgage brokers, motor vehicle dealers, and payday lenders, to develop, implement, and maintain a comprehensive security system to keep their customers' information safe. The system requires the designation of a qualified individual responsible for overseeing and implementing the information security program; written risk assessments covering the criteria for identified security risks, confidentiality, and integrity of information systems; encryption and multifactor authentication for all customer information; periodic testing, oversight of service providers, and annual reports to the board of directors. |
| Geographic Targeting Order (FinCEN) | FinCEN renewed its Geographic Targeting Orders for 12 metropolitan areas, including King County Washington. The Orders require U.S. title insurance companies to identify the natural persons behind shell companies used in all-cash purchases of residential real estate. The purchase amount threshold remains \$300,000 for each covered metropolitan area. |
| Report on Stablecoins (OCC, FDIC) | Along with the OCC, the FDIC released a Report on Stablecoins which calls for a consistent and comprehensive regulatory framework to "increase transparency into key aspects of stablecoin arrangements. Specifically, the report calls for legislation that would require stablecoins to be issued only by insured depository institutions, and for providers of custodial wallets to be subject to appropriate federal oversight. |
| FCRA Advisory Opinion (CFPB) | The Bureau issued an advisory opinion to highlight that a consumer reporting agency that uses inadequate matching procedures to match information to consumers, including name-only matching (i.e., matching information to the particular consumer who is the subject of a consumer report based solely on whether the consumer's first and last names are identical or similar to the names associated with the information), in preparing consumer reports is not using reasonable procedures to assure maximum possible accuracy under section 607(b) of the Fair Credit Reporting Act. |

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