

Regulatory and Legislative Recap
December 2021

FINAL REGULATIONS/RULES

Effective Date	Rule (Agency)	Citation	Summary
01/01/2022	Home Mortgage Disclosure Adjustment to Asset-Size Exemption Threshold (Regulation C) (CFPB)	86 FR 72818	Based on the 4.7 percent increase in the average of the CPI-W for the 12-month period ending in November 2021, the exemption threshold is adjusted to \$50 million from \$48 million. Therefore, banks, savings associations, and credit unions with assets of \$50 million or less as of December 31, 2021, are exempt from collecting data in 2022.
01/01/2022	Truth in Lending Act Adjustment to Asset-Size Exemption Threshold (Regulation Z) (CFPB)	86 FR 72820	Based on the 4.7 percent increase in the average of the CPI-W for the 12-month period ending in November 2021, the exemption threshold for creditors and their affiliates that regularly extended covered transactions secured by first liens is adjusted to \$2.336 billion from \$2.230 billion. The exemption threshold for certain insured depository institutions and insured credit unions with assets of \$10 billion or less (adjusted annually for inflation) is adjusted to \$10.473 billion from \$10 billion.
04/01/2022	Facilitating the LIBOR Transition (Regulation Z) (CFPB)	86 FR 69716	Amends the open-end and closed-end provisions to provide examples of replacement indices for LIBOR indices that meet certain Regulation Z standards, permits creditors for home equity lines of credit and card issuers for credit card accounts to transition existing accounts that use a LIBOR index to a replacement index on or after April 1, 2022, if certain conditions are met, addresses change-in-terms notice provisions for HELOCs and credit card accounts and how they apply to accounts transitioning away from using a LIBOR index, and, the addresses how the rate reevaluation provisions applicable to credit card accounts apply to the transition from using a LIBOR index to a replacement index.
01/01/2022	Capital Adequacy: The Complex Credit Union Leverage Ratio; Risk-Based Capital (NCUA)	86 FR 72784	Provides a simplified measure of capital adequacy for federally insured, natural-person credit unions classified as complex. Under the final rule, a complex credit union that maintains a minimum net worth ratio, and that meets other qualifying criteria, is eligible to opt into the complex credit union leverage ratio framework if they have a minimum net worth ratio of nine percent
01/01/2022	Subordinated Debt (NCUA)	86 FR 72807	Amends the definition of “Grandfathered Secondary Capital” to include any secondary capital issued to the United States Government or one of its subdivisions (U.S. Government), under a secondary capital application approved before January 1, 2022, irrespective of the date of issuance.

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04/01/2022	Mortgage Servicing Asses (NCUA)	86 FR 72810	Permits federal credit unions to purchase mortgage servicing assets from other federally insured credit unions subject to certain requirements.
12/22/2021	Temporary Regulatory Relief in Response to COVID-19-Extension (NCUA)	86 FR 72517	Extending NCUA's temporary final rule, which modified certain regulatory requirements to help ensure that federally insured credit unions remain operational and can address economic conditions caused by the COVID-19 pandemic. The temporary final rule issued by the Board in April 2020 temporarily raised the maximum aggregate amount of loan participations that a FICU may purchase from a single originating lender to the greater of \$5,000,000 or 200 percent of the FICU's net worth. The rule also temporarily suspended limitations on the eligible obligations that a Federal credit union may purchase and hold. In addition, given physical distancing practices necessitated by COVID-19, the rule also tolled the required timeframes for the occupancy or disposition of properties not being used for FCU business or that have been abandoned. The temporary amendments were originally scheduled to expire on December 31, 2020. The Board subsequently extended their effectiveness until December 31, 2021. Due to the continued impact of COVID-19, the Board has decided it is necessary to further extend the effective period of these temporary modifications until December 31, 2022.

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PROPOSED REGULATIONS

Comments Due	Rule (Agency)	Citation	Summary
02/07/2022	Beneficial Ownership Reporting (FinCEN)	86 FR 69920	The Financial Crimes Enforcement Network (FinCEN) issued a Notice of Proposed Rulemaking to implement the beneficial ownership information reporting provisions of the Corporate Transparency Act. "The proposed rule is designed to protect the U.S. financial system from illicit use and impede malign actors from abusing legal entities, like shell companies, to conceal proceeds of corrupt and criminal acts. Such abuses undermine U.S. national security, economic fairness, and the integrity of the U.S. financial system."
02/07/2022	AML Regulations for Real Estate	86 FR 69589	FinCEN published an Advance Notice of Proposed Rulemaking to solicit comments on a potential rule to address the vulnerability of the U.S. real estate market to money

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	Transactions (FinCEN)		laundering and other illicit activity. “The systemic money laundering vulnerabilities presented by the U.S. real estate sector, and consequently, the ability of illicit actors to launder criminal proceeds through the purchase of real estate, threatens U.S. national security and the integrity of the U.S. financial system.”
02/14/2021	Review of Bank Secrecy Act Regulations and Guidance (FinCEN)	86 FR 71201	FinCEN issued a request for information soliciting comment on ways to streamline, modernize, and update the anti-money laundering and countering the financing of terrorism regime of the United States. FinCEN seeks comment on ways to modernize risk-based AML/CFT regulations and guidance, issued pursuant to the Bank Secrecy Act, so that they, on a continuing basis, protect U.S. national security in a cost-effective and efficient manner.

RESOURCES/GUIDANCE

Guidance	Summary
Annual Threshold Adjustments (CFPB)	The CFPB released the annual inflation adjustments for Regulation Z (Credit Cards, Leases, HOEPA, and QMs.) We have broken the amounts down on our Monthly Recap . The NCUA published Regulatory Alert 21RA-10 notifying credit unions of the adjustments, and the FDIC issued FIL-76-2021 for their member banks.
Overdraft Fees (CFPB)	The CFPB released two reports, Data Point: Overdraft/NSF Fee Reliance Since 2015 – Evidence from Bank Call Reports , and Data Point: Checking Account Overdraft at Financial Institutions Served by Core Processors , showing that banks continue to rely heavily on overdraft and NSF revenue. The CFPB states that it will be enhancing its supervisory and enforcement scrutiny of banks that are heavily dependent on overdraft fees.
21-CU-17 (NCUA)	The NCUA is asking credit unions to complete the Voluntary Credit Union Diversity Self-Assessment by January 15, 2022. While the Assessment is not required, it is designed to help credit unions evaluate and advance their diversity policies and practices.
Bulletin 2021-67 (OCC)	Beginning January 1, 2022, a bank that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.384 billion is a “small bank or savings association” under the CRA regulations. A “small bank or savings association” with assets of at least \$346 million as of December 31 of both of the prior two calendar years and less than \$1.384 billion as of December 31 of either of the prior two calendar years is an “intermediate small bank or savings association” under the CRA regulations.

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<p>Updated BSA/AML Exam Manual (FFIEC)</p>	<p>The updates affect the Introduction - Customers (new), Charities and Nonprofit Organizations, Independent Automated Teller Machine Owners or Operators, and Politically Exposed Persons, sections of the manual. The FFIEC states that “The updates should not be interpreted as new requirements or as a new or increased focus on certain areas. Rather, these sections provide information and considerations related to certain customers that may indicate the need for bank policies, procedures, and processes to address potential money laundering, terrorist financing, and other illicit financial activity risks. These sections provide further transparency into the BSA/AML examination process.”</p>
<p>Supervisory Highlights (CFPB)</p>	<p>The bureau’s report describes violations found in areas such as auto loan servicing, consumer reporting, debt collection, deposits, fair lending, mortgage origination and servicing, private student loan origination, payday lending, and student loan servicing. “Today’s report reveals that irresponsible or mismanaged firms harmed Americans during the COVID-19 pandemic,” said CFPB Director Rohit Chopra in a statement. “We will continue to supervise firms to halt harmful practices before they become widespread.”</p>
<p>Special Purpose Credit Programs (HUD)</p>	<p>The U.S. Department of Housing and Urban Development released guidance clarifying that special purpose credit programs that conform with the Equal Credit Opportunity Act and Regulation B generally do not violate the Federal Fair Housing Act. The special purpose credit program provisions of ECOA and Regulation B provide targeted means by which creditors can better serve communities who have been historically shut out or otherwise disadvantaged.</p>
<p>Semiannual Risk Perspective (OCC)</p>	<p>The OCC’s Semiannual Risk Perspective addresses key issues facing banks, focusing on those that pose threats to the safety and soundness of banks and their compliance with applicable laws and regulations. This fall 2021 report presents data in five main areas: the operating environment, bank performance, special topics in emerging risks, trends in key risks, and supervisory actions.</p>
<p>REG E FAQs (CFPB)</p>	<p>The CFPB updated many of its Electronic Fund Transfers Frequently Asked Questions to address questions received by the CFPB.</p>
<p>Buy Now, Pay Later (CFPB)</p>	<p>The CFPB issued orders to five companies offering “buy now, pay later” (BNPL) credit, to collect information on the risks and benefits of these loans. The CFPB is concerned about accumulating debt, regulatory arbitrage, and data harvesting in a consumer credit market already quickly changing with technology.</p>
<p>Apache Log4j Vulnerability Guidance (CISA)</p>	<p>The Cybersecurity and Infrastructure Security Agency is warning institutions about threats regarding exploitation of a critical remote code execution vulnerability affecting Apache Log4j software. This software is used in several consumer and enterprise services, websites and applications, as well as in operational technology products, to log security and performance information.</p>
<p>Mortgage Servicing Rules (FDIC)</p>	<p>The FDIC published FIL-79-2021 notifying institutions that they have updated the technical assistance videos on the mortgage servicing rules. The information in the five videos is intended as a high-level overview to help FDIC-supervised institutions understand and comply with the mortgage servicing rules.</p>

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<p>\$8 Million CMP for BSA Violations (FinCEN)</p>	<p>FinCEN assessed the penalty on a bank that admitted that it willfully failed to implement and maintain an effective anti-money laundering (AML) program that was reasonably designed to guard against money laundering. The bank also admitted that it willfully failed to report hundreds of suspicious transactions to FinCEN involving illegal financial activity by its customers and processed by, at, or through the bank even after the bank became aware that certain customers were subjects of criminal investigations. The violations occurred from at least 2015 through 2019 and caused millions of dollars in suspicious transactions to go unreported to FinCEN in a timely and accurate manner, including transactions connected to tax evasion, illegal gambling, money laundering, and other financial crimes.</p>
<p>Safe and Sound Practices for Counterparty Credit Risk Management (FRB)</p>	<p>The Federal Reserve issued a guidance reminder on the supervisory expectations in Interagency Supervisory Guidance on Counterparty Credit Risk Management, and to make firms and industry participants aware of practices that may be inconsistent with safe and sound banking practices.</p>
<p>Automated Cybersecurity Evaluation Toolbox (NCUA)</p>	<p>The NCUA issued Letter 21-CU-15 encouraging credit unions to use and implement the maturity assessment to determine its information and cybersecurity preparedness level. While credit unions are not required to use the Toolbox, doing so can provide insight into steps a credit union may consider to strengthen its overall security posture.</p>
<p>Diversity Self-Assessment (NCUA)</p>	<p>The NCUA is encouraging credit unions to complete the Voluntary Credit Union Diversity Self-Assessment before January 15, 2022. The Self-Assessment is a valuable tool for credit unions that want to commit to the principles of diversity, equity, inclusion, and belonging. The Self-Assessment is voluntary, and not required.</p>
<p>Relationships with Third Parties that Provide Services Related to Digital Assets (NCUA)</p>	<p>21-CU-16 was issued to provide clarity about credit unions ability to establish relationships with third-party providers that offer digital asset services to members, provided certain conditions are met. This includes third-party provided services to allow members to buy, sell, and hold uninsured digital assets with the third-party provider outside of the credit union.</p>
<p>SCRA Joint Letter (CFPB & DOJ)</p>	<p>The CFPB and DOJ issued letters to landlords and mortgage servicers reminding them of the SCRA protections provided to servicemembers. “The letter to mortgage servicers comes in response to complaints from military families and veterans on a range of potential mortgage servicing violations, including inaccurate credit reporting, misleading communications to borrowers, and required lump sum payments for reinstating their mortgage loans. These complaints are being reviewed for compliance by the CFPB with the Coronavirus Aid, Relief, and Economic Security (CARES) Act and other applicable requirements.”</p>

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Wildlife Trafficking (FinCEN)	FinCEN released a Financial Threat Analysis calling attention to wildlife trafficking due to its strong association with corruption and transnational criminal organizations, a need to enhance the reporting and analysis of related illicit financial transactions, and wildlife trafficking's contribution to biodiversity loss, damage to fragile ecosystems and the increased likelihood of spreading zoonotic diseases.
HMDA Exam Procedures (OCC)	The OCC revised its HMDA Exam procedures to address changes to the effective dates for banks that meet either the closed-end mortgage loans or the open-end lines of credit loan-volume threshold in each of the two preceding calendar years, as well as a changes to a partial exemption to apply to an application or covered loan.
Comptroller's Handbook Update (OCC)	The OCC updated its "Other Real Estate Owned" booklet of its Comptrollers Handbook. The update clarifies the definition of "physical possession" regarding OREO properties, updates ownership obligations and actions as they pertain to the Fair Housing Act and makes other clarifying changes.



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Washington Legislature

The Washington Legislature convenes on January 10 and adjourns on March 10. (Even numbered years have a 60-day regular session term, while odd numbered years have a 105-day regular session term.) There have been several prefiled bills, including [*SB 5602 Concerning service providers working with state-regulated financial institutions*](#), which would allow the DFI to conduct examinations on certain financial institution service providers.

Oregon Legislature

Oregon State Legislature starts on February 1 and runs through March 7.

We will monitor the legislative sessions and include any applicable changes on future Recaps.



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