

Regulatory and Legislative Recap  
February 2022

**FINAL REGULATIONS/RULES**

Effective Date	Rule (Agency)	Citation	Summary
02/28/2022	Prompt Corrective Action: Earnings Retention Waivers and Net Worth Restoration Plans (NCUA)	<a href="#">87 FR 10944</a>	The NCUA is extending 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 crisis. The first amends these regulations to temporarily extend the NCUA's ability 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 extends a provision that modifies the specific documentation required for net worth restoration plans (NWRPs) for FICUs that become undercapitalized. These temporary modifications will remain in place until March 31, 2023.

**PROPOSED REGULATIONS**

Comments Due	Rule (Agency)	Citation	Summary
04/04/2022	Succession Planning (NCUA)	<a href="#">87 FR 6078</a>	The proposal would require that Federal Credit Union (FCU) boards of directors establish and adhere to processes for succession planning. The succession plans will help to ensure that the credit union has plans to fill key positions, such as officers of the board, management officials, executive committee members, supervisory committee members, and (where provided for in the bylaws) the members of the credit committee to provide continuity of operations. In addition, the proposed rule would require directors to be knowledgeable about the FCU's succession plan. Although the proposed rule would apply only to FCUs, the Board's purpose is to encourage and strengthen succession planning for all credit unions. The proposed rule would provide FCUs with broad discretion in implementing the proposed regulatory requirements to minimize any burden.

**RESOURCES/GUIDANCE**

Guidance	Summary
<a href="#">Russian Sanctions</a> (U.S. Treasury)	The Treasury increased its Russian related sanctions to target Russia's two largest financial institutions, in addition to three other major institutions, and target specific members in Putin's inner circle and in elite positions of power. The Treasury has also released several <a href="#">frequently asked questions</a> related to the Russian Harmful Foreign Activities

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	Sanctions.
<a href="#">ECOA Nondiscrimination Requirements</a> (NCUA)	NCUA issued a Letter to Credit Unions (22-CU-04) summarizing the Equal Credit Opportunity Act's (ECOA) nondiscrimination requirements and outlining fair lending risk factors related to marital status, age, income consideration, redlining, and indirect lending. The letter lists several fair lending risk areas that credit unions should be aware of, including marital status, age, income consideration, redlining, and indirect lending.
<a href="#">2021 Fraud Reporting</a> (FTC)	The FTC released its Sentinel Network report on fraud reports in 2021. The Report shows that consumers reported losing more than \$5.8 billion to fraud during the year, up more than 70 percent from 2020.
<a href="#">Special Credit Programs</a> (FDIC, FRB, NCUA, OCC, HUD, CFPB, DOJ, FHFA)	Along with the FRB, NCUA, OCC, CFPB, HUD, DOJ, FHFA, the FDIC issued an interagency statement to remind creditors of the ability under the ECOA and Regulation B to establish special purpose credit programs to meet the credit needs of specified classes of persons.
<a href="#">Auto Loans</a> (CFPB)	The CFPB blogged about current trends in auto loans, which discusses areas of concern in the auto lending market that they will be monitoring closely, such as practices that affect affordability for consumers and certain uses of technology in loan servicing and collection.
<a href="#">Prepaid Interest &amp; QMs</a> (CFPB)	The CFPB issued a Factsheet on the interest rate used for calculating the prepaid interest under the price-based general qualified mortgage (QM) annual percentage rate (APR) calculation rule for certain adjustable-rate mortgages (ARMs) and step-rate loans. The factsheet describes the interest rate that is used for calculating prepaid interest for purposes of this special APR calculation rule.
<a href="#">AVM Options</a> (CFPB)	The CFPB outlined options to ensure that computer models used to help determine home valuations are accurate and fair. The options will now be reviewed to determine their potential impact on small businesses. The CFPB, along with its federal partners, intends to ensure a high level of confidence in the estimates produced by automated valuation models; protect against the manipulation of data; seek to avoid conflicts of interest; require random sample testing and reviews; and account for any other such factor that the agencies determine to be appropriate.
<a href="#">22-RA-03</a> (NCUA)	The NCUA issued the Regulatory Alert reminding credit unions of annual adjustment for asset-size exemption thresholds under Regulation Z. The exemption for escrow requirements and small creditor qualified mortgages increased to \$2.336 Billion. The higher-priced mortgage loan escrow requirement exemption threshold increased to \$10.473 billion.

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<a href="#">Rapid Response</a> (FinCEN)	<p>FinCEN issued a fact sheet on its Rapid Response Program - a collaborative partnership that leverages FinCEN's relationships with law enforcement, U.S. financial institutions, and foreign financial intelligence units to help victims and their financial institutions recover funds stolen as the result of certain cyber-enabled financial crimes schemes, including business e-mail compromise. The fact sheet provides information on the program and emphasizes that victims of cyber-enabled crimes, or victims' financial institutions must file a complaint with law enforcement to initiate the RRP process.</p>
<a href="#">Consumer Compliance Outlook</a> (Federal Reserve)	<p>The Federal Reserve published the latest issue of the Consumer Compliance Outlook. The issue includes <i>Advanced Topics in Adverse Action Notices Under the ECOA</i>, Regulatory Updates, recent court opinions and a regulatory calendar.</p>
<a href="#">Student Loan Servicers</a> (CFPB)	<p>The CFPB alerted servicers to stop unlawful conduct regarding borrowers' eligibility and benefits under the Public Service Loan Forgiveness Waiver. The bulletin reminds servicers to take actions to ensure compliance with the UDAAP prohibitions.</p>
<a href="#">Overdraft Fee Changes</a> (CFPB)	<p>The CFPB published a chart showing changes to the top 20 banks based on overdraft/NSF revenue reported. The chart includes changes to the banks' programs since September 2021 in response to heightened focus on overdraft revenue and junk fees.</p>
<a href="#">Petitions for Rulemaking</a> (CFPB)	<p>The CFPB announced that members of the public can submit petitions for rulemaking directly to the CFPB. The petitions will be posted on public dockets for review and comment. Members of the public can request that the agency pursue a new rule, amend an existing one, or repeal a rule. Former government employees and other individuals who are paid to influence the agency's rulemaking agenda behind the scenes will be asked to submit their petition for public inspection instead.</p>
<a href="#">Regulation E Compulsory Use</a> (CFPB)	<p>The CFPB issued a Compliance Bulletin on the Electronic Fund Transfer Act's (EFTA) compulsory use prohibition. Section 913 of EFTA provides, among other things, that no person may require a consumer to establish an account for receipt of electronic fund transfers with a particular financial institution as a condition of receipt of a government benefit. The CFPB issued the Compliance Bulletin to reiterate that this prohibition in EFTA applies to government benefit accounts.</p>
<a href="#">Winter 2022 Newsletter</a> (WA DFI)	<p>The DFI issued its latest Newsletter which includes a review of 2021, common exam violations, and tips on preparing for an examination.</p>
<a href="#">High-end Art and Money Laundering</a> (U.S. Treasury)	<p>The Treasury published <i>Study of the Facilitation of Money Laundering and Terror Finance Through the Trade in Works of Art</i>. The Study identifies art market participants and sectors of the high-value art market in the United States that may present ML and TF risks to the U.S. financial system. The Study also examines what efforts U.S. government</p>

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	agencies, regulators, and market participants should explore to further mitigate these risks.
<a href="#">Bank Stress Tests</a> (Federal Reserve)	The Fed released hypothetical scenarios for its 2022 bank stress tests, which help ensure that large banks are able to lend to households and businesses even in a severe recession. This year, 34 large banks will be tested against a severe global recession with heightened stress in commercial real estate and corporate debt markets.
<a href="#">Stress Test Scenarios</a> (FDIC)	The FDIC released the hypothetical economic scenarios for use in the upcoming stress tests for covered institutions with total consolidated assets of more than \$250 billion.
<a href="#">Synthetic ID Fraud Mitigation Toolkit</a> (Federal Reserve)	The Federal Reserve released a Synthetic Identity Fraud Mitigation Toolkit to help educate the financial services industry about synthetic identity fraud and outline potential ways to detect and mitigate this fraud type. This new toolkit will be expanded throughout the year, and provides useful insights and resources for identifying and mitigating synthetic identity fraud – specifically, to: increase education and awareness about synthetic identity fraud, enable the payments industry to better identify and fight synthetic identity fraud, and foster payments industry collaboration on synthetic identity fraud mitigation.
<a href="#">HMDA Reporting</a> (CFPB)	The CFPB published <i>Reportable HMDA Data: A Regulatory and Reporting Overview Reference Chart</i> for HMDA Data Collected in 2022. The chart is intended to be used as a reference tool for data points required to be collected, recorded, and reported under Regulation C.
<a href="#">22-RA-01</a> (NCUA)	The NCUA’s Alert, <i>Home Mortgage Disclosure Act Data Collection Requirements for Calendar Year 2022</i> , reminds credit unions of the HMDA thresholds and requirements to collect HMDA data. It provides a handy chart to use to identify if a credit union is eligible for a partial exemption of the requirements. In a related Alert, <a href="#">22-RA-02</a> , the NCUA reminds credit unions, that are subject to HMDA requirements, that their LARs for 2021 must be submitted by March 1, 2022.
<a href="#">Updated RMS Manual</a> (FDIC)	The FDIC updated two sections of its Risk Management Manual of Examination Policies. <i>Section 16.1 – Report of Examination Instructions</i> : This section was updated to include recent accounting updates and conform to other supervisory instructions. <i>Section 17.1a and 17.1b – Bank of Anytown</i> : These sections were updated to include revised Report of Examination templates for the Recapitulation of Securities page and the Capital Calculations page.
<a href="#">Justice-Involved Individuals and the Consumer Financial Marketplace</a> (CFPB)	The CFPB published the report which examines the ways in which persons who are incarcerated or are under community supervision are often forced to obtain needed services from specific providers at exorbitant costs. It looks at accounts maintained by prison systems, the use of third-party providers, collections, and, among other things, the impact of creditworthiness screening by banks on individuals leaving incarceration.

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[Rural or Underserved Areas](#)  
(CFPB)

The CFPB updated its list of rural or underserved areas for use in 2022 for use under Regulation Z. The Bureau also updated its tool to identify whether a specific address is in a rural or underserved area.



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**Washington Legislature as of March 1, 2022**

<a href="#">E2SSB 5188 - Concerning the creation of the Washington state public bank</a> <i>Concerning creation of the Washington state public financial cooperative. *</i>	
House Standing:	Senate Standing: In Committee
<a href="#">HB 1729 – Establishing the Washington blockchain work group</a>	
House Standing: In Committee	Senate Standing:
<a href="#">SB 5544 – Establishing the Washington blockchain work group</a> <i>Subject to appropriations, the Washington Blockchain Work Group (work group) is established with the purpose of examining various potential applications for blockchain technology such as computing, banking and other financial services, the real estate transaction process, health care, supply chain management, higher education, and public recordkeeping.</i>	
House Standing: In Committee	<b>Senate Standing: Passed Senate</b>
<a href="#">EHB 1165 – Concerning the Washington Credit Union Act</a> <i>The Director shall determine, by rule, the definition of small credit unions for the purpose of providing relief from certain credit union requirements in state law or rule. *</i>	
<b>House Standing: Passed House</b>	Senate Standing: On Floor Calendar
<a href="#">E2SHB 1015 – Creating the Washington Equitable Access to Credit Act</a> <i>Creates the Equitable Access to Credit Program to fund grants through the Department of Commerce to certain community development financial institutions (CDFI) to provide loans to historically underserved communities during the 2021-23 biennium.</i>	
<b>House Standing: Passed House</b>	Senate Standing: In Committee
<a href="#">SB 5447 – Concerning financial products and services</a> <i>The department shall establish a regulatory sandbox program in consultation with applicable agencies of this state to enable a person to obtain limited access to the market in this state to test innovative financial products or services without obtaining a license or other authorization that otherwise might be required.</i>	
House Standing:	Senate Standing: In Committee
<a href="#">SJM 8004 – Addressing “de-risking” by financial institutions</a> <i>Directs Congress to enact legislation that will provide transparency to customers or former customers of financial institutions that need to send remittance to families in other countries through wire transfers.</i>	
House Standing: In Committee	<b>Senate Standing: Passed Senate</b>
<a href="#">SB 5602 – Concerning service providers working with state-regulated financial institutions</a> <i>Authorizes the Department of Financial Services to examine third party service providers to banks and take enforcement actions against them under certain circumstances.</i>	
House Standing: In Committee	<b>Senate Standing: Passed Senate</b>

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**Oregon Legislature as of March 1, 2022**

<a href="#">SB 1565 B Relating to discrimination based on the use of certain types of currency as payment.</a> Provides that a place of public accommodation that refuses to accept United States coin and currency as payment for goods and services engages in an unlawful practice. Provides that a place of public accommodation that makes a distinction, discrimination, or restriction because a patron offers United States coin or currency as payment for goods and services engages in an unlawful practice.	
House Standing: In Committee	Senate Standing: Recommended Pass

There are a number of bills relating to marijuana and hemp. Institutions serving these businesses should monitor these bills and determine any potential effects to the institution's business lines.

[HB 4016 A Relating to cannabis; declaring an emergency.](#) *Authorizes Oregon Liquor and Cannabis Commission to, based on supply of and demand for marijuana, refuse to issue initial marijuana production, processing, wholesale and retail licenses for amount of time commission determines necessary.*

[SB 1541 Relating to marijuana revenue; declaring an emergency.](#) *Directs Department of State Police to establish unit to assist county sheriffs' offices with law enforcement related to unlawful marijuana cultivation or distribution operations and with general local law enforcement needs.*

[SB 1564 Relating to cannabis; declaring an emergency.](#) *Allows governing body of county that declares state of emergency related to cannabis to request that State Department of Agriculture deny issuance of industrial hemp grower licenses in area subject to jurisdiction of county.*

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