

FINAL REGULATIONS/RULES

Effective Date	Rule (Agency)	Citation	Summary
02/27/2023	Regulations Implementing the Adjustable Interest Rate (LIBOR) Act (Federal Reserve)	88 FR 5204	The Federal Reserve is adopting a final rule to implement the Adjustable Interest Rate (LIBOR) Act. The final rule establishes benchmark replacements for contracts governed by U.S. law that reference certain tenors of U.S. dollar LIBOR (the overnight and one-, three-, six-, and 12-month tenors) and that do not have terms that provide for the use of a clearly defined and practicable replacement benchmark rate following the first London banking day after June 30, 2023. The final rule also provides additional definitions and clarifications consistent with the Adjustable Interest Rate (LIBOR) Act.

PROPOSED REGULATIONS

Comments Due	Rule (Agency)	Citation	Summary
03/31/2023	Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders (CFPB)	88 FR 6088	The Consumer Financial Protection Bureau is proposing to require certain nonbank covered person entities (with exclusions for insured depository institutions, insured credit unions, related persons, States, certain other entities, and natural persons) that are under certain final public orders obtained or issued by a Federal, State, or local agency in connection with the offering or provision of a consumer financial product or service to report the existence of such orders to a Bureau registry.
TBD	Nonbank Registration of Certain Contract Terms and Conditions (CFPB)	TBD	The CFPB proposed a rule to establish a public registry of supervised nonbanks' terms and conditions in "take it or leave it" form contracts that claim to waive or limit consumer rights and protections, like bankruptcy rights, liability amounts, or complaint rights. In some cases, terms and conditions in non-negotiable form contracts mislead consumers into believing the terms or conditions are legally enforceable. Under the proposed rule, nonbanks subject to the CFPB's supervisory jurisdiction would need to submit information on terms and conditions in form contracts they use that seek to waive or limit individuals' rights and other legal protections. That information would be posted in a registry that will be open to the public, including to other consumer financial protection enforcers.

RESOURCES/GUIDANCE

Guidance	Summary

<p>Unlawful Negative Option Marketing Practices (CFPB)</p>	<p>The Consumer Financial Protection Bureau has issued Consumer Financial Protection Circular 2023-01, titled “Unlawful Negative Option Marketing Practices.” In this circular, the Bureau responds to the question, “Can persons that engage in negative option marketing practices violate the prohibition on unfair, deceptive, or abusive acts or practices in the Consumer Financial Protection Act (CFPA)?”</p>
<p>Human Smuggling Alert (FinCEN)</p>	<p>The Financial Crimes Enforcement Network issued an alert to better support financial institutions in detecting financial activity related to human smuggling along the southwest border of the United States. The alert builds upon FinCEN’s 2020 and 2014 human smuggling and human trafficking advisories, while providing information specifically related to human smuggling occurring along the southwest border of the United States. It also provides red flag indicators to help financial institutions better identify transactions potentially related to such activity and reminds financial institutions of their Bank Secrecy Act reporting obligations.</p>
<p>Primary Money Laundering Concern (FinCEN)</p>	<p>FinCEN issued an order identifying the virtual currency exchange Bitzlato Limited as a “primary money laundering concern” in connection with Russian illicit finance pursuant to section 9714(a) of the Combatting Russian Money Laundering Act. This type of action, a rarely used so-called death-knell sanction that cuts off the entity from the U.S. financial system, has been used mainly in the past against banks and other financial institutions and in most cases has forced the institution to close.</p>
<p>FinCEN Alert on Potential U.S. Commercial Real Estate Investments by Sanctioned Russian Elites, Oligarchs, and Their Proxies (FinCEN)</p>	<p>FinCEN issued an alert to financial institutions regarding potential investments in the U.S. commercial real estate sector by sanctioned Russian elites, oligarchs, their family members, and the entities through which they act. The alert lists red flags and typologies involving potential sanctions evasion in the commercial real estate sector and reminds financial institutions of their Bank Secrecy Act reporting obligations. The alert, which is the fourth Russia-related alert FinCEN has issued since Russia’s invasion of Ukraine in 2022, further complements ongoing U.S. government efforts to isolate sanctioned Russian elites, oligarchs, and their proxies from the international financial system.</p>
<p>HMDA Filing (CFPB)</p>	<p>The CFPB announced that the filing period for HMDA data collected in 2022 opened on January 1, 2023. Submissions will be considered timely if received on or before Wednesday, March 1, 2023. The HMDA Platform provides financial institutions an opportunity to determine whether their loan/application register (LAR) data comply with the reporting requirements outlined in the Filing Instructions Guide for HMDA data collected in 2022. The Beta Platform found at https://ffiec.beta.cfpb.gov/filing/ will remain available on an ongoing basis for filers wishing to test their submissions. (No data submitted on the Beta Platform will be considered for compliance with HMDA data reporting requirements.)</p>
<p>Mortgage Servicing (CFPB)</p>	<p>The CFPB updated its Mortgage Servicing Examination Procedures for forbearances and other tools that mortgage servicers have used during the COVID-19 national emergency. The updated Procedures also integrate focus areas from the CFPB’s Supervisory Highlights findings, including questions about the fees servicers charge borrowers, such as phone pay fees, and misrepresentations related to foreclosure. Additionally, it advises examiners to seek information on how the servicers communicate with borrowers about homeowner assistance programs.</p>

Crypto-Asset Risks (Federal Reserve & FDIC)	<p>Along with the FDIC, the Federal Reserve issued a Joint Statement on crypto-asset risks to banking organizations. The Statement identifies key risks for banking organizations associated with crypto-assets and the crypto-asset sector and outlines approaches to supervision. The Statement said the agencies “believe that issuing or holding as principal crypto-assets that are issued, stored, or transferred on an open, public, and/or decentralized network, or similar system is highly likely to be inconsistent with safe and sound banking practices.”</p>
Bulletin B-23-01 (WA DFI)	<p>The Washington Division of Credit Unions published Bulletin B-23-01 <i>Revised Uniform Unclaimed Property Act - What Credit Unions Need to Know</i>. The Bulletin addresses changes to the Revised Uniform Unclaimed Property Act which became effective January 1, 2023.</p>
Bulletin B-23-02 (WA DFI)	<p>This Bulletin includes several initiatives that the DCU is working on in 2023 and what the DCU’s examination focus will be during exams in 2023. Included in their exam focus are liquidity risk; credit risk; fraud risk; CECL; IS&T, third-party services providers; and consumer compliance – BSA/AML, TILA-RESPA, Regulation E, and Regulation Z.</p>
Consumer Compliance Outlook (Federal Reserve)	<p>The Federal Reserve released the latest issue of its Consumer Compliance Outlook. This issue contains an overview of Special Purpose Credit Programs under the ECOA, recent court opinions, and a regulatory calendar.</p>
Fair Lending Booklet (OCC)	<p>The OCC released a revised version of its Fair Lending booklet of the Comptroller’s Handbook. The revised booklet provides information and examination procedures to assist OCC examiners in assessing fair lending risk and evaluating compliance with the Fair Housing Act (FHA), Equal Credit Opportunity Act (ECOA), and Regulation B, the consumer protection regulation that implements the ECOA. The revised booklet: reflects changes to laws and regulations since the booklet was last published; reflects the current OCC approach to fair lending examinations; includes new and clarified details on examination scenarios; and includes clarified and expanded risk factors for a variety of examination types.</p>
2023 Supervisory Priorities (NCUA)	<p>The NCUA issued Letter 23-CU-01 which outlines its supervisory priorities and other updates to the agency’s examination program for 2023. Included in the NCUA’s priorities are interest rate risk; liquidity risk; credit risk; fraud prevention and detection; cybersecurity; consumer financial protection – overdraft programs, fair lending, fair credit reporting, and TILA. Also, examiners will request information about a credit union’s approach to succession planning for senior leaders, including any written succession plan the credit union has established.</p>
Interest Rate Ceiling (NCUA)	<p>The NCUA Board unanimously approved maintaining the current 18-percent interest rate ceiling for loans made by federal credit unions for a new eighteen-month period from March 11, 2023, through September 10, 2024. The Federal Credit Union Act caps the interest rate on federal credit union loans at 15 percent; however, the NCUA Board has the discretion to raise that limit for 18-month periods if interest-rate levels could threaten safety and soundness of individual credit unions. The 18-percent cap applies to all federal credit union lending, except originations made under NCUA’s payday alternative loan program, which are capped at 28 percent.</p>
Simplified CECL FAQs (NCUA)	<p>The NCUA has released updates to its frequently asked questions on the current expected credit losses (CECL) accounting standard and its Simplified CECL Tool. The FAQs include topics such as monthly use of the CECL Tool,</p>

	negative loss rates, loans to be individually evaluated, qualitative adjustments for current year loss trends, participations and indirect loan programs, and larger credit unions using the CECL Tool.