

RKL REGULATORY COMPLIANCE FOR FINANCIAL INSTITUTIONS >

December 2019

FDIC Establishes Advisory Committee of State Regulators (ASCR)

December 2, 2019

- The ASCR will provide advice and recommendations to the FDIC on a broad range of policy issues regarding the regulation of state-chartered financial institutions throughout the United States, including its territories.
- The ASCR will provide a forum where state regulators and the FDIC can discuss a variety of current and emerging issues that have potential implications regarding the regulation and supervision of state-chartered financial institutions.
- The ASCR is intended to facilitate regular discussion of: safety and soundness and consumer protection issues; the creation of new banks; the protection of our nation's financial system from risks such as cyber-attacks or money laundering; and other timely issues.
- The ASCR will serve solely in an advisory capacity and will have no final decision-making authority, nor will it have access to or discuss any non-public, confidential or institution-specific information. The Chairman certifies that the establishment of the ASCR is in the public interest in connection with the performance of duties imposed on the FDIC by law. ASCR members will not receive any compensation for their services other than reimbursement for reasonable travel expenses incurred to attend ASCR meetings.

[Additional Details](#)

CFPB – Fair Credit Reporting Act Disclosures

November 27, 2019

- The Bureau of Consumer Financial Protection announces that the ceiling on allowable charges under section 612(f) of the Fair Credit Reporting Act (FCRA) will remain unchanged at \$12.50, effective for 2020.

[Additional Information](#)

Flood Insurance Program Extended

November 22, 2019

- On November 21, 2019, the President signed legislation passed by Congress that extends the National Flood Insurance Program's (NFIP) authorization to December 20, 2019.
- Congress must now reauthorize the NFIP by no later than 11:59 p.m. on **December 20, 2019**.

[Additional Details](#)

CFPB – Regulation Z; Screening and Training Requirements for Loan Originators

October 31, 2019

- Generally, if a mortgage loan originator organization employs an individual loan originator who is not licensed and is not required to be licensed, Regulation Z requires the loan originator organization to perform specific screening of that individual before permitting the individual to act as a loan originator and to provide certain ongoing training.
- This interpretive rule concludes that a loan originator organization is not required to comply with certain screening and training requirements under Regulation Z if the individual loan originator employee is authorized to act as a loan originator pursuant to the temporary authority described in the SAFE Act.
- These amendments take effect on November 24, 2019.

[Additional Details](#)

FDIC – Proposed Permissible Interest on Loans That Are Sold, Assigned or Otherwise Transferred

December 6, 2019

- The Federal Deposit Insurance Corporation (FDIC) is seeking comment on proposed regulations clarifying the law that governs the interest rates state-chartered banks and insured branches of foreign banks (collectively, state banks) may charge.
- The proposed regulations would provide that state banks are authorized to charge interest at the rate permitted by the state in which the state bank is located, or one percent in excess of the 90-day commercial paper rate, whichever is greater.
- The proposed regulations also would provide that whether interest on a loan is permissible under section 27 of the Federal Deposit Insurance Act would be determined at the time the loan is made, and interest on a loan permissible under section 27 would not be affected by subsequent events, such as a change in state law, a change in the relevant commercial paper rate, or the sale, assignment, or other transfer of the loan.
- Comments close: February 4, 2020

[Additional Information](#)

CFPB – Remittance Transfers under Regulation E

December 3, 2019

- The Bureau is proposing changes to the Rule to mitigate the effects of the expiration of a statutory exception that allows insured institutions to disclose estimates instead of exact amounts to consumers. That exception expires on July 21, 2020.
- In addition, the Bureau is proposing to increase a safe harbor threshold in the Rule related to whether a person makes remittance transfers in the normal course of its business, which would have the effect of reducing compliance costs for entities that make a limited number of remittance transfers annually.
- Comments close: January 21, 2020

[Additional Information](#)

NCUA – Proposed Increase to Real Estate Appraisal Threshold

November 29, 2019

- The NCUA Board (Board) proposes to amend the agency’s regulation requiring appraisals for certain real estate-related transactions.
- The proposed rule would increase the threshold level below which appraisals would not be required for residential real estate-related transactions from \$250,000 to \$400,000.
- Consistent with the requirement for other transactions that fall below applicable appraisal thresholds, federally insured credit unions (FICUs) would be required to obtain written estimates of market value of the real estate collateral that is consistent with safe and sound banking practices in lieu of an appraisal. For easier reference, the proposed rule would explicitly incorporate the existing statutory requirement that appraisals be subject to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice (USPAP).
- Comments close: January 28, 2020

[Additional Information](#)

OCC – Proposed Permissible Interest on Loans That Are Sold, Assigned or Otherwise Transferred

November 21, 2019

- Federal law authorizes national banks and savings associations (banks) to charge interest at the maximum rate permitted to any state-chartered or licensed lending institution in the state where the bank is located. Pursuant to federal law, national banks and federal savings associations may also enter into contracts. Inherent in this authority is the authority to assign such contracts. In addition, well-established authority authorizes banks to sell, assign or otherwise transfer their loans.
- Despite these clear authorities, recent developments have created uncertainty about the ongoing validity of the interest term after a bank sells, assigns or otherwise transfers a loan.
- This rule would clarify that when a bank sells, assigns or otherwise transfers a loan, interest permissible prior to the transfer continues to be permissible following the transfer.
- Comments close: January 21, 2020

[Additional Information](#)

Agencies Release Guidance on Providing Services to Customers Engaged in Hemp-Related Business

December 2, 2019

- The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Financial Crimes Enforcement Network (FinCEN) and the Office of the Comptroller of the Currency, in consultation with the Conference of State Bank Supervisors, are issuing this statement to provide clarity regarding the legal status of commercial growth and production of hemp and relevant requirements for banks under the Bank Secrecy Act (BSA) and its implementing regulations. FinCEN will issue additional guidance after further reviewing and evaluating the U.S. Department of Agriculture (USDA) interim final rule.
- The Agriculture Improvement Act of 2018 (2018 Farm Bill), which removed hemp as a Schedule I controlled substance under the Controlled Substances Act 3, was signed into law on December 20, 2018.
- Because hemp is no longer a Schedule I controlled substance under the Controlled Substances Act, banks are not required to file a Suspicious Activity Report (SAR) on customers solely because they are engaged in the growth or cultivation of hemp in accordance with applicable laws and regulations. For hemp-related customers, banks are expected to follow standard SAR procedures, and file a SAR if indicia of suspicious activity warrants.

Agencies Release Guidance on Providing Services to Customers Engaged in Hemp-Related Business

December 2, 2019

- Bank customers engaged in hemp-related business activities are responsible for complying with the requirements set forth in the 2018 Farm Bill and applicable regulations. It is generally a bank's business decision as to the types of permissible services and accounts to offer, and banks must have a BSA/AML compliance program commensurate with the level of complexity and risks involved. When deciding to serve hemp-related businesses, banks must comply with applicable regulatory requirements for customer identification, suspicious activity reporting, currency transaction reporting and risk-based customer due diligence, including the collection of beneficial ownership information for legal entity customers.
- In the context of marijuana-related businesses, banks should continue following FinCEN guidance FIN-2014-G001 – BSA Expectations Regarding Marijuana-Related Businesses.

[Additional Details](#)

Interagency Statement on the Use of Alternative Data in Credit Underwriting

December 2, 2019

- This statement is focused on the consumer protection implications of the use of alternative data in underwriting, highlighting potential benefits and risks. The agencies recognize alternative data's potential to expand access to credit and produce benefits for consumers.
- As with prior developments in the evolution of credit underwriting, including the advent of credit scoring, the use of alternative data and analytical methods also raises questions regarding how to effectively leverage new technological developments that are consistent with applicable consumer protection laws. Applicable consumer protection laws include, as appropriate, fair lending laws, prohibitions against unfair, deceptive, or abusive acts or practices and the Fair Credit Reporting Act.
- A well-designed compliance management program provides for a thorough analysis of relevant consumer protection laws and regulations to ensure firms understand the opportunities, risks and compliance requirements before using alternative data. Based on that analysis, data that present greater consumer protection risks warrant more robust compliance management. Robust compliance management includes appropriate testing, monitoring and controls to ensure consumer protection risks are understood and addressed.

[Additional Details](#)

Effective Date	Implementing Rule/Regulation	Additional Details
January 1, 2019	CFPB Adjustments: <ul style="list-style-type: none"> • FCRA Ceiling on Allowable Charges • Threshold for Consumer Leasing • Adjustment for Appraisal for HPMLs • TILA Asset Size Exemption • TILA Exemption Threshold Adjustment • HMDA Asset Size Exemption 	<ul style="list-style-type: none"> • FCRA Ceiling on Allowable Charges • Threshold for Consumer Leasing • Adjustment for Appraisal for HPMLs • TILA Asset Size Exemption • TILA Exemption Threshold Adjustment • HMDA Asset Size Exemption
January 1, 2019	Liability Provisions Under Regulation CC	<ul style="list-style-type: none"> • Rule
January 1, 2019	CRA Asset Size Adjustment for Small and Intermediate Small Institutions	<ul style="list-style-type: none"> • Rule
January 31, 2019	CFPB Civil Penalty Inflation Adjustment	<ul style="list-style-type: none"> • Rule
March 15, 2019	List of Foreign Financial Institutions Subject to Correspondent Account or Payable-Through Account Sanctions (CAPTA List)	<ul style="list-style-type: none"> • List
April 1, 2019	Prepaid Rule	<ul style="list-style-type: none"> • Rule • Compliance Guide
April 17, 2019	Disclosure of Financial and Other Information by FDIC Insured State Nonmember Banks	<ul style="list-style-type: none"> • Rule

Effective Date	Implementing Rule/Regulation	Additional Details
July 1, 2019	New Uniform Residential Loan Application - URLA	• URLA
July 1, 2019	Mandatory acceptance of certain private flood insurance	• Rule
August 12, 2019	Reg D – Reserve Requirements of Depository Institutions	• Rule
August 12, 2019	Reg A – Extensions of Credit by Federal Reserve Banks	• Rule
August 19, 2019	Small Business Size Standards	• Rule
August 21, 2019	Joint Ownership Deposit Accounts	• Rule
September 20, 2019	Assessment of Fees	• Rule
October 1, 2019	Regulatory Capital Rule	• Rule
October 1, 2019	Recordkeeping for Timely Deposit Insurance Determination	• Rule
October 22, 2019	NCUA Rule on Real Estate Appraisals	• Rule
December 2, 2019	NCUA Payday Alternative Loans	• Rule
January 1, 2020	Simplify “Volcker Rule”	• Rule
July 1, 2020	Final Amendments to Reg. CC Funds Availability	• Rule
November 19, 2020	Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date	• Issuance



FOCUSED. ON YOU. >

BARRY PELAGATTI

Partner & Leader, Financial Services Industry Group

BPelagatti@rklcpa.com

JULIYA KOFMAN GREENFIELD

Principal, Financial Services Industry Group

JKofmanGreenfield@RKLcpa.com

Disclaimer: By issuing this report, RKL LLP is not providing legal or compliance advice on any specific regulation, or any corresponding legislation that affects financial institutions. We offer this information solely to provide industry insight and encourage financial institutions to internally review related compliance topics. If compliance advice is required, please contact us to discuss your specific needs. If legal advice is required, please contact your internal legal resource to determine how these proposed and/or finalized regulatory changes may affect your institution.



FOCUSED. ON YOU.