

# RKL REGULATORY COMPLIANCE FOR FINANCIAL INSTITUTIONS >

November 2020

## Consumer Financial Protection Bureau “CFPB” Publishes Final Rule revising Fair Debt Collection Practices

---

October 30, 2020

- This rule revises Regulation F, 12 CFR part 1006, which implements the Fair Debt Collection Practices Act (FDCPA), to prescribe Federal rules governing the activities of debt collectors, as that term is defined in the FDCPA. The final rule addresses, among other things, communications in connection with debt collection and prohibitions on harassment or abuse, false or misleading representations, and unfair practices in debt collection.
- This rule has not yet been published in the Federal Register, but will be effective one year after publication.

### [Additional Information](#)

## Office of the Comptroller of the Currency (OCC) Issues Final Rule on National Banks and Federal Savings Associations as Lenders

---

October 30, 2020

- The Office of the Comptroller of the Currency (OCC) is issuing this final rule to determine when a national bank or Federal savings association (bank) makes a loan and is the “true lender,” including in the context of a partnership between a bank and a third party, such as a marketplace lender. Under this rule, a bank makes a loan if, as of the date of origination, it is named as the lender in the loan agreement or funds the loan.
- Effective: December 29, 2020

[Additional Information](#)

## Bureau of Consumer Financial Protection Extends Sunset Date of Qualified Mortgage Definition Under the Truth in Lending Act (Regulation Z)

---

October 26, 2020

- With certain exceptions, Regulation Z requires creditors to make a reasonable, good faith determination of a consumer's ability to repay any residential mortgage loan, and loans that meet Regulation Z's requirements for “qualified mortgages” (QMs) obtain certain protections from liability.
- One category of QMs consists of loans that are eligible for purchase or guarantee by either the Federal National Mortgage Association (Fannie Mae) or the Federal Home Loan Mortgage Corporation (Freddie Mac) (collectively, government-sponsored enterprises, or GSEs), while operating under the conservatorship or receivership of the Federal Housing Finance Agency (FHFA).
- The GSEs are currently under Federal conservatorship. In 2013, the Bureau of Consumer Financial Protection (Bureau) established this category of QMs (Temporary GSE QM loans) as a temporary measure that would expire with respect to each GSE on the date that GSE exits conservatorship, or on January 10, 2021, whichever comes first.
- In this final rule, the Bureau amends Regulation Z to replace the January 10, 2021 sunset date of the Temporary GSE QM loan definition with a provision stating that the Temporary GSE QM loan definition will be available only for covered transactions for which the creditor receives the consumer's application before the mandatory compliance date of final amendments to the General QM loan definition in Regulation Z. This final rule does not amend the provision stating that the Temporary GSE QM loan definition expires with respect to a GSE when that GSE exits conservatorship.
- Effective: December 28, 2020      [Additional Information](#)

## Federal Deposit Insurance Corporation FDIC Interim Final Rule on the Applicability of Annual Independent Audits and Reporting Requirements for Fiscal Years Ending in 2021

---

October 23, 2020

- In light of recent disruptions in economic conditions caused by the coronavirus disease 2019 (COVID-19) and strains in U.S. financial markets, some insured depository institutions (IDIs) have experienced increases to their consolidated total assets as a result of large cash inflows resulting from participation in the Paycheck Protection Program (PPP), the Money Market Mutual Fund Liquidity Facility (MMLF), the Paycheck Protection Program Liquidity Facility (PPPLF), and the effects of other government stimulus efforts.
- Since these inflows may be temporary, but are significant and unpredictable, the FDIC is issuing an interim final rule (IFR) that will allow IDIs to determine the applicability of part 363 of the FDIC's regulations, Annual Independent Audits and Reporting Requirements, for fiscal years ending in 2021 based on the lesser of their consolidated total assets as of December 31, 2019, or consolidated total assets as of the beginning of their fiscal years ending 2021.
- Notwithstanding any temporary relief provided by this IFR, an IDI would continue to be subject to any otherwise applicable statutory and regulatory audit and reporting requirements. The IFR also reserves the authority to require an IDI to comply with one or more requirements of part 363 if the FDIC determines that asset growth was related to a merger or acquisition.
- Effective: October 23, 2020 through December 31, 2021

[Additional Information](#)

## Office of the Comptroller of the Currency, Federal Reserve, and Federal Deposit Insurance Corporation Adopt Final Rule on Real Estate Appraisals

---

October 16, 2020

- The OCC, Board, and FDIC (collectively, the agencies) are adopting as final the interim final rule published by the agencies on April 17, 2020, making temporary amendments to the agencies' regulations requiring appraisals for certain real estate-related transactions.
- The final rule adopts the deferral of the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate.
- Regulated institutions should make best efforts to obtain a credible estimate of the value of real property collateral before closing the loan and otherwise underwrite loans consistent with the principles in the agencies' Standards for Safety and Soundness and Real Estate Lending Standards.
- The agencies' final rule allows regulated institutions to expeditiously extend liquidity to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of the coronavirus disease 2019 (COVID event). The final rule adopts the interim final rule with one revision in response to comments received by the agencies on the interim final rule.
- Effective: October 16, 2020 through December 31, 2020

[Additional Information](#)

## Office of Foreign Assets Control, Treasury Added Regulations to Implement Executive Order 13928 of June 11, 2020

---

October 1, 2020

- The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adding regulations to implement [Executive Order 13928](#) of June 11, 2020 (“Blocking Property of Certain Persons Associated With the International Criminal Court”).
- OFAC intends to supplement these regulations with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance, general licenses, and statements of licensing policy.
- Effective: October 1, 2020

### [Additional Information](#)

## National Credit union Administration (NCUA) Adopts Final Rule on Real Estate Appraisals

---

October 14, 2020

- The NCUA Board (Board) is adopting as final an interim final rule to temporarily amend its regulations requiring all federally insured credit unions to provide appraisals of real estate for certain real estate related transactions.
- The final rule defers the requirement to obtain an appraisal or written estimate of market value for up to 120 days following the closing of certain residential and commercial real estate transactions, excluding transactions for acquisition, development, and construction of real estate.
- Credit unions should make best efforts to obtain a credible estimate of the value of real property collateral before closing the loan, and otherwise underwrite loans consistent with safety and soundness principles.
- The final rule allows credit unions to expeditiously extend liquidity to creditworthy households and businesses in light of recent strains on the U.S. economy as a result of the coronavirus disease 2019 (COVID event). The final rule adopts the interim final rule without change.
- The final rule is similar to a recent final rule issued by the Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (FRB); and Federal Deposit Insurance Corporation (FDIC) (collectively, the other banking agencies) that also defers the requirement to obtain an appraisal or evaluation for up to 120 days following the closing of a transaction for certain residential and commercial real estate transactions.
- Effective: October 14, 2020 through December 31, 2020

[Additional Information](#)

## Board of Governors of the Federal Reserve System Advance Notice of Proposed Rulemaking Regarding Modernizing the Community Reinvestment Act

---

October 19, 2020

- The Board of Governors of the Federal Reserve System (Board) is publishing for public comment an advance notice of proposed rulemaking (ANPR) to solicit public input regarding modernizing the Board's Community Reinvestment Act regulatory and supervisory framework. The Board is seeking comment on all aspects of the ANPR from all interested parties and also requests commenters to identify other issues that the Board should consider.
- Comments due by: February 16, 2021

### [Additional Information](#)

## Financial Crimes Enforcement Network Proposed Rule to Modify Threshold to Collect and Retain Information on Certain Funds Transfers and Transmittals of Funds

---

October 27, 2020

- The Board and FinCEN (collectively, the Agencies) are issuing this proposed rule to modify the threshold in the rule implementing the Bank Secrecy Act (BSA) requiring financial institutions to collect and retain information on certain funds transfers and transmittals of funds.
- The proposed modification would reduce this threshold from \$3,000 to \$250 for funds transfers and transmittals of funds that begin or end outside the United States. FinCEN is likewise proposing to reduce from \$3,000 to \$250 the threshold in the rule requiring financial institutions to transmit to other financial institutions in the payment chain information on funds transfers and transmittals of funds that begin or end outside the United States.
- The Agencies are also proposing to clarify the meaning of “money” as used in these same rules to ensure that the rules apply to domestic and cross-border transactions involving convertible virtual currency (CVC), which is a medium of exchange (such as cryptocurrency) that either has an equivalent value as currency, or acts as a substitute for currency, but lacks legal tender status.
- The Agencies further propose to clarify that these rules apply to domestic and cross-border transactions involving digital assets that have legal tender status.
- Comments due by: November 27, 2020

[Additional Information](#)

## Small Business Size Standards: Transportation and Warehousing; Information; Finance and Insurance; Real Estate and Rental and Leasing

---

October 2, 2020

- The U.S. Small Business Administration (SBA) proposes to increase its receipts-based small business size definitions (commonly referred to as size standards) for North American Industry Classification System (NAICS) sectors related to Transportation and Warehousing, Information, Finance and Insurance, and Real Estate and Rental and Leasing.
- SBA proposes to increase size standards for 45 industries in those sectors, including eighteen (18) industries in NAICS Sector 48-49 (Transportation and Warehousing), eight (8) industries in NAICS Sector 51 (Information), ten (10) industries in NAICS Sector 52 (Finance and Insurance), and nine (9) industries in NAICS Sector 53 (Real Estate and Rental and Leasing).
- SBA's proposed revisions relied on its recently revised "Size Standards Methodology" (Methodology). SBA seeks comments on its proposed changes to size standards in the above sectors, and the data sources it evaluated to develop the proposed size standards.
- Comments due by: December 1, 2020

### [Additional Information](#)

## Press Release: Federal Reserve Board Adjusts Terms of Main Street Lending Program

---

October 30, 2020

- The Federal Reserve Board adjusted the terms of the Main Street Lending Program in two important ways to better target support to smaller businesses that employ millions of workers and are facing continued revenue shortfalls due to the pandemic.
- In particular, the minimum loan size for three Main Street facilities available to for-profit and non-profit borrowers has been reduced from \$250,000 to \$100,000 and the fees have been adjusted to encourage the provision of these smaller loans.
- The Board and Department of the Treasury also issued a new frequently asked question clarifying that Paycheck Protection Program loans of up to \$2 million may be excluded for purposes of determining the maximum loan size under the Main Street Lending Program, if certain requirements are met, which should also help smaller businesses access Main Street loans.

### [Additional Information](#)

## Press Release: Agencies Propose Regulation On The Role Of Supervisory Guidance

---

October 29, 2020

- Federal financial regulators invited comment on a proposal outlining and confirming the agencies' use of supervisory guidance for regulated institutions. The proposal would codify their September 2018 statement clarifying the differences between regulations and guidance.
- The proposed language notes that supervisory guidance does not have the force and effect of law and that the agencies do not take enforcement actions or issue supervisory criticisms based on non-compliance with supervisory guidance.
- Comments due by: 60 days after posting in the Federal Register

### [Additional Information](#)

## CFPB Releases Advance Notice of Proposed Rulemaking on Consumer Access to Financial Records

---

October 22, 2020

- The Consumer Financial Protection Bureau (Bureau) today issued an advance notice of proposed rulemaking (ANPR) requesting information related to consumer access to financial records.
- In issuing the ANPR, the Bureau is asking the public how it might most efficiently and effectively develop regulations to implement Section 1033 of the Dodd-Frank Act, which provides for consumer rights to access financial records.

### [Additional Information](#)

## CFPB Publishes 2021 Reportable HMDA Data: A Regulatory and Reporting Overview Reference Chart

---

October 16, 2020

- The CFPB Publishes 2021 Reportable HMDA Data in a Regulatory and Reporting Overview Reference Chart. A link to the Reference Chart is provided below.

[Additional Information](#)

## OCC Assesses \$85 Million Civil Money Penalty Against USAA Federal Savings Bank

---

October 14, 2020

- The OCC took this action based on the bank's failure to implement and maintain an effective compliance risk management program and an effective information technology risk governance program.
- These deficiencies resulted in violations of law, including but not limited to violations of the Military Lending Act and the Servicemembers Civil Relief Act. The bank is in the process of remediating these violations pursuant to the requirements of the January 2019 Consent Order the bank entered into with the OCC.

### [Additional Information](#)

## Consumer Financial Protection Bureau Releases Assessment of TRID Mortgage Loan Disclosure Rule

---

October 1, 2020

- The CFPB published an assessment of the TRID Integrated Disclosure Rule, finding that the TRID rule made progress towards several of its goals.
- The assessment indicates that the TRID Rule improved consumers' ability to locate key information and compare terms and costs. The assessment also found that the Rule resulted in sizeable implementation costs for companies.
- In addition, the CFPB published a Data Point examining how the terms and costs of a mortgage loan may change during the origination process
- The report also summarizes public comments for modifying, expanding, or eliminating the rule.

### [Additional Information](#)

Effective Date	Implementing Rule/Regulation	Additional Details
April 1, 2019	Prepaid Rule	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> <li>• <a href="#">Compliance Guide</a></li> </ul>
July 1, 2019	Mandatory acceptance of certain private flood insurance	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
August 12, 2019	Reg D – Reserve Requirements of Depository Institutions	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
August 12, 2019	Reg A – Extensions of Credit by Federal Reserve Banks	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
August 19, 2019	Small Business Size Standards	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
September 20, 2019	Assessment of Fees	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
October 1, 2019	Regulatory Capital Rule	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
October 1, 2019	Recordkeeping for Timely Deposit Insurance Determination	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
October 9, 2019	OCC, Federal Reserve System and FDIC Rule on Real Estate Appraisals	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
October 22, 2019	NCUA Rule on Real Estate Appraisals	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>
December 2, 2019	NCUA Payday Alternative Loans	<ul style="list-style-type: none"> <li>• <a href="#">Rule</a></li> </ul>

# COMPLIANCE CALENDAR >

Effective Date	Implementing Rule/Regulation	Additional Details
December 28, 2019	Taxpayer First Act	• <a href="#">Rule</a>
January 1, 2020	Simplify “Volcker Rule”	• <a href="#">Rule</a>
January 1, 2020	CRA Asset Size Adjustment for Small and Intermediate Small Institutions	• <a href="#">Rule</a>
January 1, 2020	HMDA Adjustment to Asset Size Exemption Threshold	• <a href="#">Rule</a>
July 1, 2020	Final Amendments to Reg. CC Funds Availability	• <a href="#">Rule</a>
November 1, 2020	New URLA Required Use – POSTPONED DUE TO COVID-19	• <a href="#">Issuance</a>
November 19, 2020	Payday, Vehicle Title, and Certain High-Cost Installment Loans; Delay of Compliance Date	• <a href="#">Issuance</a>
January 1, 2021	Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA and Qualified Mortgages)	• <a href="#">Rule</a>
March 1, 2021	New URLA Required Use	• <a href="#">Issuance</a>
January 1, 2022	Reg C Final rule establishing 200 loans as the permanent HMDA data reporting threshold for open-end lines of credit	• <a href="#">Rule</a>



# FOCUSED. ON YOU. >

## **BARRY PELAGATTI**

**Partner & Leader, Financial Services Industry Group**

[BPelagatti@rklcpa.com](mailto:BPelagatti@rklcpa.com)

## **JULIYA KOFMAN GREENFIELD**

**Principal, Financial Services Industry Group**

[JKofmanGreenfield@RKLcpa.com](mailto: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.*