



RKL REGULATORY COMPLIANCE FOR FINANCIAL INSTITUTIONS >

July 2022

Prohibition on Inclusion of Adverse Information in Consumer Reporting in Cases of Human Trafficking (Regulation V)

June 24, 2022

- The Consumer Financial Protection Bureau (Bureau) is amending Regulation V, which implements the Fair Credit Reporting Act (FCRA), to address recent legislation that assists consumers who are victims of trafficking. This final rule establishes a method for a victim of trafficking to submit documentation to consumer reporting agencies, including information identifying any adverse item of information about the consumer that resulted from certain types of human trafficking, and prohibits the consumer reporting agencies from furnishing a consumer report containing the adverse item(s) of information. The Bureau is taking this action as mandated by the National Defense Authorization Act for Fiscal Year 2022 to assist consumers who are victims of trafficking in building or rebuilding financial stability and personal independence.
- Effective Date: This final rule is effective July 25, 2022.

[Additional Information](#)

Regulation D: Reserve Requirements of Depository Institutions

June 29, 2022

- The Board of Governors of the Federal Reserve System (“Board”) has adopted final amendments to its Regulation D to revise the rate of interest paid on balances (“IORB”) maintained at Federal Reserve Banks by or on behalf of eligible institutions. The final amendments specify that IORB is 1.65 percent, a 0.75 percentage point increase from its prior level. The amendment is intended to enhance the role of IORB in maintaining the federal funds rate in the target range established by the Federal Open Market Committee (“FOMC” or “Committee”).
- Effective date: The amendments to part 204 (Regulation D) are effective June 29, 2022.

[Additional Information](#)

Regulation A: Extensions of Credit by Federal Reserve Banks

June 29, 2022

- The Board of Governors of the Federal Reserve System (“Board”) has adopted final amendments to its Regulation A to reflect the Board's approval of an increase in the rate for primary credit at each Federal Reserve Bank. The secondary credit rate at each Reserve Bank automatically increased by formula as a result of the Board's primary credit rate action.
- Effective Date: The amendments to part 201 (Regulation A) are effective June 29, 2022.

[Additional Information](#)

CFPB Moves to Scrutinize Banks' Overdraft Programs

June 16, 2022

- As part of a pilot supervision effort, the CFPB has requested information on overdraft and non-sufficient funds practices from “over 20 institutions” that it has identified as having a higher share of frequent overdraft users or higher average fees. The bureau signaled it intends to “use this information for further examination and review” and to “share this information with other regulators,” but not make the information public.
- Specifically, the CFPB is asking the institutions to provide data on: the total annual dollar amount consumers receive in overdraft coverage compared to the amount of fees charged; the annual dollar amount of overdraft fees charged per active checking account; the annual amount of NSF fees charged per active checking account; the prevalence of frequent users of overdraft; and the share of active checking accounts that are opted into overdraft programs for ATM and one-time debit transactions.
- This marks the latest effort by the bureau under Director Rohit Chopra’s leadership to target legitimate bank overdraft programs, which are already subject to robust disclosure and regulatory requirements. In an op-ed published this past April, American Bankers Association President and CEO Rob Nichols strongly condemned the bureau’s efforts to attack overdraft offerings and other fee-based bank products and services. In addition, recent ABA/Morning Consult research found that consumers want access to overdraft, with 89 percent saying they find their bank’s overdraft protection valuable, and three in four who have paid an overdraft fee in the past year saying that they were glad their bank covered the payment rather than returning or declining it.

[Additional Information](#)

Assessments, Revised Deposit Insurance Assessment Rates

June 22, 2022

- In order to support its rulemaking and other functions, the Consumer Financial Protection Bureau (Bureau or CFPB) is charged with monitoring for risks to consumers in the offering or provision of consumer financial products or services, including developments in markets for such products or services. As part of this mandate, the Bureau is seeking information from credit card issuers, consumer groups, and the public regarding credit card late fees and late payments, and card issuers' revenue and expenses. For example, the Bureau is seeking information relevant to certain provisions related to credit card late fees in the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act or the Act) and Regulation Z. Areas of inquiry include: factors used by card issuers to set late fee amounts; card issuers' costs and losses associated with late payments; the deterrent effects of late fees; cardholders' late payment behavior; methods that card issuers use to facilitate or encourage timely payments, including autopay and notifications; card issuers' use of the late fee safe harbor provisions in Regulation Z; and card issuers' revenue and expenses related to their domestic consumer credit card operations.
- Comments must be received by July 22, 2022.

[Additional Information](#)

The Fair Credit Reporting Act's Limited Preemption of State Laws

June 22, 2022

- States play an important role in the regulation of consumer reporting. State laws that are not “inconsistent” with the Fair Credit Reporting Act (FCRA) are generally not preempted by that statute. The FCRA also expressly preempts certain categories of State laws. This interpretive rule clarifies that FCRA’s express preemption provisions have a narrow and targeted scope. States therefore retain substantial flexibility to pass laws involving consumer reporting to reflect emerging problems affecting their local economies and citizens. For example, if a State law were to forbid consumer reporting agencies from including information about medical debt, evictions, arrest records or rental arrears in a consumer report (or from including such information for a certain period of time), such a law would generally not be preempted. Likewise, if a State law were to prohibit furnishers from furnishing such information to consumer reporting agencies, such a law would also not generally be preempted. Similarly, if a State law required that a consumer reporting agency provide information required by the FCRA at the consumer’s requests in languages other than English, such a law would generally not be preempted.

[Additional Information](#)

FinCEN Issues Statement on Due Diligence for Independent ATM Owners, Operators

June 22, 2022

- The Financial Crimes Enforcement Network (FinCEN) issued a Statement on Bank Secrecy Act Due Diligence for independent ATM owners and operators. The purpose of the statement is to “provide clarity to banks on how to apply a risk-based approach to conducting customer due diligence (CDD) on independent Automated Teller Machine (ATM) owners or operators, consistent with the requirements set out in FinCEN’s 2016 CDD Rule.”
- Under FinCEN’s 2016 CDD Rule, banks are required to establish and maintain written policies and procedures reasonably designed to identify and verify “beneficial owners of legal entity customers.” This Rule extends to conducting CDD on independent ATM owners and operators who maintain bank accounts to supply cash for their ATMs and to settle the electronic funds transfers used to process ATM transactions.

[Additional Information](#)

Advisory Opinion on Debt Collectors' Collection of Pay-to-Pay Fees

June 29, 2022

- The Consumer Financial Protection Bureau (CFPB) is issuing this advisory opinion to affirm that the Fair Debt Collection Practices Act and Regulation F prohibit debt collectors from charging consumers pay-to-pay fees (also known as convenience fees) for making payment a particular way, such as by telephone or online, unless those fees are expressly authorized by the underlying agreement or are affirmatively permitted by law.

[Additional Information](#)

Assessments, Revised Deposit Insurance Assessment Rates

July 1, 2022

- The FDIC is seeking comment on a proposed rule that would increase initial base deposit insurance assessment rates by 2 basis points, beginning with the first quarterly assessment period of 2023. The proposal would increase the likelihood that the reserve ratio would reach the required minimum level of 1.35 percent by the statutory deadline of September 30, 2028, consistent with the FDIC's Amended Restoration Plan, and is intended to support growth in the Deposit Insurance Fund (DIF or fund) in progressing toward the FDIC's long-term goal of a 2 percent Designated Reserve Ratio (DRR).
- Comments must be received no later than August 20, 2022.

[Additional Information](#)

Small Business Size Standards: Adoption of 2022 North American Industry Classification System for Size Standards

July 5, 2022

- The U.S. Small Business Administration (“SBA” or “Agency”) proposes to amend its small business size regulations to incorporate the U.S. Office of Management and Budget's (OMB) North American Industry Classification System (NAICS) revision for 2022, identified as NAICS 2022, into its table of small business size standards. The NAICS 2022 revision created 111 new industries by reclassifying, combining or splitting 156 NAICS 2017 industries or their parts. SBA's proposed size standards for these 111 new industries under NAICS 2022 have resulted in an increase to the size standards for 21 industries and 27 parts of three industries under NAICS 2017, a decrease to size standards for seven industries and 41 parts of one industry, a change in the size standard measure from average annual receipts to number of employees for one industry, a change in the size standard measure from number of employees to average annual receipts for a part of one industry, and no change in size standards for 118 industries and 33 parts of eight industries. SBA proposes to adopt the updated table of size standards, effective October 1, 2022.
- SBA must receive comments to this proposed rule on or before August 4, 2022.

[Additional Information](#)

FinCEN Warns Against Elder Financial Exploitation

July 5, 2022

- The Financial Crimes Enforcement Network (FinCEN) is issuing this advisory to alert financial institutions to the rising trend of elder financial exploitation (EFE) targeting older adults and to highlight new EFE typologies and red flags since FinCEN issued the first EFE Advisory in 2011. FinCEN is also issuing this advisory in support of World Elder Abuse Awareness Day, which has been commemorated on June 15 every year since 2006 and provides an opportunity for communities around the world to promote a better understanding of abuse and neglect of older adults by raising awareness of the related cultural, social, economic and demographic factors.
- **SAR Filing Request:** FinCEN requests that financial institutions reference the advisory by including “EFE FIN-2022-A002” in SAR field 2 (“Filing Institution Note to FinCEN”), and mark the check box for elder financial exploitation.

[Additional Information](#)

Joint Statement on the Risk-Based Approach to Assessing Customer Relationships and Conducting Customer Due Diligence

July 6, 2022

- The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Financial Crimes Enforcement Network, the National Credit Union Administration and the Office of the Comptroller of the Currency (collectively, the Agencies) are issuing a joint statement to remind banks of the risk-based approach to assessing customer relationships and conducting customer due diligence (CDD). This statement does not alter existing Bank Secrecy Act/ Anti-Money Laundering (BSA/AML) legal or regulatory requirements, nor does it establish new supervisory expectations.
- The Agencies recognize that it is important for customers engaged in lawful activities to have access to financial services. Therefore, the Agencies are reinforcing a longstanding position that no customer type presents a single level of uniform risk or a particular risk profile related to money laundering, terrorist financing or other illicit financial activity.
- Banks must apply a risk-based approach to CDD, including when developing the risk profiles of their customers. More specifically, banks must adopt appropriate risk-based procedures for conducting ongoing CDD that, among other things, enable banks to: (i) understand the nature and purpose of customer relationships for the purpose of developing a customer risk profile, and (ii) conduct ongoing monitoring to identify and report suspicious transactions and, on a risk basis, to maintain and update customer information.

[Additional Information](#)

Effective Date	Implementing Rule/Regulation	Additional Details
November 1, 2020	New URLA Required Use	• Issuance
November 19, 2020	Payday, Vehicle Title and Certain High-Cost Installment Loans; Delay of Compliance Date	• Issuance
January 1, 2021	Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA and Qualified Mortgages)	• Rule
January 1, 2021	CRA Asset-Size Adjustment for Small and Intermediate Small Institutions	• Rule
January 1, 2021	HMDA Adjustment to Asset-Size Exemption Threshold	• Rule
March 1, 2021	Extended URLA Implementation Timeline	• Issuance
November 30, 2021	Final Rule Implementing Regulations for the Fair Debt Collection Practices Act	• Rule
January 1, 2022	Regulation C Final Rule Establishing 200 Loans as the Permanent HMDA Data Reporting Threshold for Open-End Lines of Credit	• Rule
October 1, 2022	Mandatory Compliance for QM Definitions under Regulation Z	• Rule



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