rkl

RKL REGULATORY COMPLIANCE FOR FINANCIAL INSTITUTIONS ›

August 2022

Regulatory Reform Initiative: Streamlining and Modernizing the 7(a), Microloan, and 504 Loan Programs To Reduce Unnecessary Regulatory Burden

June 30, 2022

- This final rule removes or revises various regulations governing the agency's business loan programs that are obsolete, unnecessary, ineffective or burdensome. This final rule also makes several technical amendments to incorporate recent statutory changes and other non-substantive changes. In addition, because this final rule removes a regulation that is cross-referenced in a regulation in SBA's Disaster Loan Program, this rule makes one conforming change to the regulation in the Disaster Loan Program.
- This final rule is effective August 1, 2022.

Additional Information

Global Terrorism Sanctions Regulations

July 1, 2022

- The Department of the Treasury's Office of Foreign Assets Control (OFAC) is adopting a final rule amending the Global Terrorism Sanctions Regulations to implement a September 9, 2019, counter-terrorism Executive order.
- This rule is effective July 1, 2022.

Additional Information

Asset Threshold for Determining the Appropriate Supervisory Office

July 21, 2022

- The NCUA Board (Board) is amending its regulations to revise the $10 billion asset threshold used for assigning supervision of consumer federally insured credit unions (FICUs) to the Office of National Examinations and Supervision (ONES). The rule only applies to FICUs whose assets are $10 billion or more (covered credit unions). The rule provides that covered credit unions with less than $15 billion in total assets (tier I credit unions) will be supervised by the appropriate NCUA Regional Office. Covered credit unions with $15 billion or more in total assets (tier II and tier III credit unions) continue to be supervised by ONES. The rule does not alter any regulatory requirements for covered credit unions.

- This rule is effective January 1, 2023.

Additional Information

Regulation A: Extensions of Credit by Federal Reserve Banks

August 9, 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 August 9, 2022.

Additional Information

Regulation D: Reserve Requirements of Depository Institutions

August 9, 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 2.40 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 August 9, 2022.

Additional Information

Cyber Incident Notification Requirements for Federally Insured Credit Unions

July 27, 2022

- Due to the increased frequency and severity of cyberattacks on the financial services sector, the NCUA Board is proposing to require a federally insured credit union that experiences a reportable cyber incident to report the incident to the NCUA as soon as possible and no later than 72 hours after the federally insured credit union reasonably believes that it has experienced a reportable cyber incident. This notification requirement provides an early alert to the NCUA and does not require credit unions to provide a detailed incident assessment to the NCUA within the 72-hour time frame.
- Comments must be received on or before September 26, 2022.

Additional Information

Assessments, Amendments to Incorporate Troubled Debt Restructuring Accounting Standards Update

July 27, 2022

- The Federal Deposit Insurance Corporation seeks comment on a proposed rule that would incorporate updated accounting standards in the risk-based deposit insurance assessment system applicable to all large insured depository institutions (IDIs), including highly complex IDIs. The FDIC calculates deposit insurance assessment rates for large and highly complex IDIs based on supervisory ratings and financial measures, including the underperforming assets ratio and the higher-risk assets ratio, both of which are determined, in part, using restructured loans or troubled debt restructurings (TDRs). The FDIC is proposing to include modifications to borrowers experiencing financial difficulty, an accounting term recently introduced by the Financial Accounting Standards Board (FASB) to replace TDRs, in the underperforming assets ratio and higher-risk assets ratio for purposes of deposit insurance assessments.
- Comments must be received by August 26, 2022.

Additional Information

Regulation Implementing the Adjustable Interest Rate (LIBOR) Act

July 28, 2022

- The Board is inviting comment on a proposed regulation that would implement the Adjustable Interest Rate (LIBOR) Act. The proposed rule would establish 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 proposed rule also would provide additional definitions and clarifications consistent with the Adjustable Interest Rate (LIBOR) Act.
- Comments must be submitted by August 29, 2022.

Additional Information

CFPB Expected to Issue New Guidance Requiring Banks to Repay More Fraud Victims

August 5, 2022

- The CFPB is preparing to release new guidance that would require banks to make refunds to victims of scammers who defraud consumers into sending money to a third-party using an online money transfer platform. This action is being driven by an increase in consumer complaints to the CFPB about such scams.
- Under the Electronic Fund Transfer Act (EFTA) and Regulation E, an unauthorized electronic fund transfer (EFT) is an EFT from a consumer's account initiated by a person other than the consumer without actual authority to initiate the transfer and from which the consumer receives no benefit. The existing Official Staff Commentary specifically states that an unauthorized EFT includes a transfer initiated by a person who obtained the access device from the consumer through fraud or robbery, stopping well short of covering transactions initiated by the consumer as the result of fraud.
- Under the EFTA and Regulation E, consumers who provide a bank with timely notice of an error that the bank determines to be an unauthorized EFT are entitled to EFTA/Regulation E liability protection. The new guidance would require banks to treat fraudulently induced transactions as unauthorized EFTs, even when they are initiated by the consumer with the result that banks would be required to repay the amount of such transactions to consumers.

Additional Information

FDIC Examiners Increasingly Targeting CRE Concentrations

August 8, 2022

- FDIC examiners will increase their focus on testing commercial real estate transactions during the upcoming examination cycle, the agency said in its latest Supervisory Insights.
- In an article on the financial performance of banks with CRE concentrations, the FDIC said:
  - At year-end 2021, FDIC-supervised banks held almost $1.1 trillion in CRE loans, including $795.7 billion at community banks.
  - While lending concentrations are not inherently problematic, CRE loan concentrations add potential risk amid ongoing economic uncertainty.
  - The agency's increased focus on CRE will include examiner tests of newer CRE credits, credits within stressed subcategories and geographies, and credits with payments vulnerable to rising rates and costs.
- Federal regulators last week published a separate request for comment on a proposed interagency policy statement on CRE loan accommodations and workouts. Comments are due by October 3, 2022.

COMPLIANCE CALENDAR

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

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

---

rkl ADVISORS for WHAT'S NEXT