



# RKL REGULATORY COMPLIANCE FOR FINANCIAL INSTITUTIONS >

November 2022

## Assessments, Amendments to Incorporate Troubled Debt Restructuring Accounting Standards Update

October 24, 2022

- The Federal Deposit Insurance Corporation is adopting a final rule that incorporates 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 final rule includes 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.
- This final rule is effective January 1, 2023.

[Additional Information](#)

## Consumer Financial Protection Circular 2022-06: Unanticipated Overdraft Fee Assessment Practices

November 7, 2022

- The Consumer Financial Protection Bureau (Bureau or CFPB) has issued Consumer Financial Protection Circular 2022-06, titled, “Unanticipated Overdraft Fee Assessment Practices.” In this Circular, the Bureau responds to the question, “Can the assessment of overdraft fees constitute an unfair act or practice under the Consumer Financial Protection Act (CFPA), even if the entity complies with the Truth in Lending Act (TILA) and Regulation Z, and the Electronic Fund Transfer Act (EFTA) and Regulation E?”
  - Yes. Overdraft fee practices must comply with TILA, EFTA, Regulation Z, Regulation E and the prohibition against unfair, deceptive and abusive acts or practices in section 1036 of the CFPA. In particular, overdraft fees assessed by financial institutions on transactions that a consumer would not reasonably anticipate are likely unfair. These unanticipated overdraft fees are likely to impose substantial injury on consumers that they cannot reasonably avoid and that is not outweighed by countervailing benefits to consumers or competition.
- The Bureau released this [Circular](#) on its website on October 26, 2022.

### [Additional Information](#)

## Bulletin 2022-06: Unfair Returned Deposited Item Fee Assessment Practices

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November 7, 2022

- A Returned Deposited Item is a check that a consumer deposits into their checking account that is returned to the consumer because the check could not be processed against the check originator's account. Blanket policies of charging Returned Deposited Item fees to consumers for all returned transactions irrespective of the circumstances or patterns of behavior on the account are likely unfair under the Consumer Financial Protection Act (CFPA). The Consumer Financial Protection Bureau (Bureau or CFPB) is issuing this bulletin to notify regulated entities how the Bureau intends to exercise its enforcement and supervisory authorities on this issue.
- This bulletin is applicable as of November 7, 2022.

### [Additional Information](#)

## Regulation D: Reserve Requirements of Depository Institutions

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November 17, 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 3.90 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”).
- The amendments to part 204 (Regulation D) are effective November 17, 2022.
- The IORB rate change was applicable on November 3, 2022.

### [Additional Information](#)

## Regulation A: Extensions of Credit by Federal Reserve Banks

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November 17, 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.
- The amendments to part 201 (Regulation A) are effective November 17, 2022.
- The rate changes for primary and secondary credit were applicable on November 3, 2022.

[Additional Information](#)

## Acceptance of Private Flood Insurance for FHA-Insured Mortgages

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November 21, 2022

- This final rule amends Federal Housing Administration (FHA) regulations to allow mortgagors the option to purchase private flood insurance on FHA-insured mortgages for properties located in Special Flood Hazard Areas (SFHAs), in satisfaction of the mandatory purchase requirement of the Flood Disaster Protection Act of 1973 (the FDPA). The FDPA, as amended, requires the owner of a property mapped in a SFHA, and located in a community participating in the National Flood Insurance Program, to purchase flood insurance as a condition of receiving a mortgage backed by the Government Sponsored Entities (GSEs), Department of Veterans Affairs (VA), U.S. Department of Agriculture (USDA), or Federal Housing Administration (FHA). In consideration of public comments, HUD's experience implementing the program, and HUD's goals of aligning with the Biggert-Waters Act while mitigating risk and protecting taxpayers' funds, this final rule adopts HUD's November 23, 2020, proposed rule with minor changes.
- *Effective date:* December 21, 2022.

### [Additional Information](#)

## Federal DC Court Overturns Closed-End Loan HMDA Reporting Threshold

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October 3, 2022

- In April 2020, the CFPB issued a final [HMDA rule](#) increasing the Home Mortgage Disclosure Act (HMDA) reporting threshold for closed-end mortgage loans from 25 covered loans originated in each of the prior two years to 100 covered loans originated in each of the prior two years. The federal district court for the District of Columbia recently invalidated the [change](#), although the court let stand the increase in the permanent threshold for reporting open-end lines of credit made by the April 2020 rule from 100 covered lines of credit in each of the two prior years to 200 covered lines of credit in each of the two prior years. The ruling is relevant for both single-family and multi-family mortgage lenders.

[Additional Information](#)



## Notice and Request for Comment Regarding the CFPB's Inquiry Into Big Tech Payment Platforms

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October 4, 2022

- On October 21, 2021, the Consumer Financial Protection Bureau (Bureau or CFPB) ordered six large technology companies operating payments systems in the United States to provide information about certain of their business practices. The information will help the CFPB better understand how these firms use personal payments data and manage data access to users so the Bureau can ensure adequate consumer protection. Accompanying the orders, the Director of the Bureau issued a statement which is reprinted in this document for public review and comment. The Bureau invites any interested parties, including consumers, small businesses, advocates, financial institutions, investors, and experts in privacy, technology, and national security to submit comments to inform the agency's inquiry.
- Comments must be received on or before December 6, 2022.

### [Additional Information](#)

## FHFA Addresses Appraisal Bias

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November 4, 2022

- The Federal Housing Finance Agency (FHFA) addresses appraisal bias reflected in the recently released [Uniform Appraisal Dataset \(UAD\) Aggregate Statistics Data File and Dashboard](#). The UAD information is derived from more than 47 million appraisals conducted between 2013 and June 30, 2022. As the name suggests, the UAD standardizes various data elements regarding an appraisal. Lenders selling loans to Fannie Mae and Freddie Mac must submit appraisal information in the UAD format.

[Additional Information](#)

## FinCEN Reports Significant Increase in Ransomware-related BSA Filings in 2021

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November 4, 2022

- On November 1, FinCEN reported that ransomware continues to pose a significant threat to U.S. infrastructure, businesses and the public, with ransomware-related Bank Secrecy Act (BSA) filings in 2021 accounting for nearly \$1.2 billion.
- According to FinCEN, reported ransomware-related incidents have substantially increased from 2020, with roughly 75 percent of these incidents reported during the second half of 2021 emanating from, or connected to, actors in Russia.

[Additional Information](#)

## Enhancing Public Data on Auto Lending

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November 17, 2022

- Since the start of the pandemic, the cost of automobiles has risen substantially. Over 100 million Americans have an auto loan, and the CFPB estimates that there is currently \$1.5 trillion in outstanding auto loan debt, making it the third-largest consumer credit category after mortgages and student loans. At its current trajectory, auto loan balances will surpass outstanding student loans in the first half of 2023.
- Financial markets and policymakers have long had access to granular mortgage data that has provided insight into patterns in lending and risk. Because student loans are largely administered by the federal government, we know more about them too. But, despite its size, we know much less about the auto lending market. As a result, the CFPB is announcing an effort to work with industry and other agencies to develop a new data set to better monitor the auto loan market.
- The CFPB encourages the early submission of comments. All submissions must include the document title and docket number. In general, all comments received will be posted without change to <https://www.regulations.gov>.

### [Additional Information](#)



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