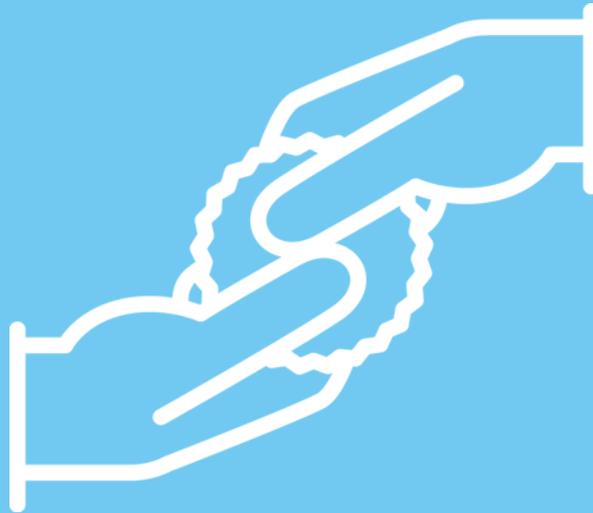


# Banking and compliance update

## Summer 2018



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## Interagency news

### ***Interagency statement on EGRRCPA***

On July 6, 2018, the Fed, Federal Deposit Insurance Corporation (FDIC) and Office of the Comptroller of the Currency (OCC) (i.e., joint agencies) jointly issued a [statement](#) detailing rules and associated reporting requirements that are immediately affected by the enactment of the Economic Growth, Regulatory Relief and Consumer Protection Act (EGRRCPA).

These changes affect company-run stress testing, resolution plans, the Volcker rule, high volatility commercial real estate exposures, examination cycles, municipal obligations as high-quality liquid assets and other provisions.

The statement from the joint agencies of the currency describes interim positions the regulatory agencies will take before incorporating the changes into their regulations. The agencies will take the described positions in the interim rule until the agencies amend their regulations to incorporate EGRRCPA's changes. Certain amendments took effect on the day of EGRRCPA's enactment, whereas other provisions will take effect at a later date. Information on a couple issues below:

**Examination cycle:** EGRRCPA increases the total asset threshold for well-capitalized insured depository institutions to be eligible for an 18-month examination cycle from \$1 billion to \$3 billion, making an 18-month examination cycle available to a larger number of "1-rated" institutions, and authorizes the agencies to make corresponding changes for "2-rated" institutions. The agencies intend to engage in rulemaking to implement these provisions.

**Appraisals in rural areas:** EGRRCPA provides an exemption to the appraisal requirements for certain transactions with values of less than \$400,000 involving real property or an interest in real property that is located in a rural area, as specified in section 103 of EGRRCPA. This exemption was effective upon EGRRCPA's enactment.

### ***Agencies issue statements on implementing EGRRCPA HMDA reporting exemptions***

OCC [Bulletin 2018-19](#), FDIC [FIL-36-2018](#) and Federal Reserve Board (FRB) [statement](#), all issued on July 5, 2018, address the impact of the Housing Mortgage Disclosures Act (HMDA) amendments made by section 104 of the EGRRCPA, which provides a partial exemption to some smaller volume banks and credit unions from some HMDA data filing requirements. The law provides a partial exemption to banks and credit unions for closed-end mortgage loans if the institution originated fewer than 500 closed-end mortgage loans in each of the two preceding calendar years, and for open-end lines of credit if the institution originated fewer than 500 open-end lines of credit in each of the two preceding calendar years.

The agencies stated:

- > The new law will not affect the format of the LARs for institutions filing 2018 data in 2019. Banks and credit unions with the partial exemption will enter an exemption code in fields that they aren't required to complete.
- > The Bureau expects to provide a revised filing instructions guide later this summer.

- > The agencies will not require data resubmission for 2018 HMDA data reported in 2019 unless there are material data errors.
- > The agencies don't plan to assess penalties for errors in 2018 data, and will focus their exams on diagnosing problems rather than penalizing lenders for them.

### ***EGRRCPA appraisal relief***

Section 103 of the EGRRCPA, which was signed on May 24, 2018, provides limited relief from appraisal requirements for certain loans. An appraisal in connection with a federally related transaction involving real property or an interest in real property is not required if:

- > the real property or interest in real property is located in a rural area;
- > not later than three days after the date on which the closing disclosure form is given to the consumer, the mortgage originator, directly or indirectly—
  - has contacted not fewer than three state certified appraisers or state licensed appraisers; and
  - has documented that no state certified appraiser or state licensed appraiser, as applicable, was available within five business days beyond customary and reasonable fee and timeliness standards for comparable appraisal assignments;
- > the transaction value is less than \$400,000; and
- > the mortgage originator is subject to oversight by a federal financial institutions regulatory agency.

Section 103 was effective upon enactment, but regulatory guidance is expected. It is expected that the federal financial institutions regulatory agencies will develop guidance to clarify the “three appraiser” requirement and “five-day” period.

## CFPB updates

### ***Trump nominates Kathy Kraninger to lead CFPB***

President Trump nominated Kathy Kraninger, a top aide at the Office of Management and Budget (OMB), as director of the Consumer Financial Protection Bureau (CFPB) in June 2018. Kraninger is an associate director at OMB responsible for financial regulatory agency budgets, and previously served as senate staff on Capitol Hill and at the Department of Homeland Security. Upon confirmation, Kraninger would replace CFPB Acting Director Mick Mulvaney, who is also the confirmed director of OMB. Kraninger's nomination comes at a key moment for the CFPB; under the Federal Vacancies Reform Act, Mulvaney's stint as acting director would have expired this month, but when a permanent replacement is nominated, the clock resets, allowing Mulvaney to remain as acting director until Kraninger is confirmed. As of August 16<sup>th</sup>, the Senate Banking Committee rescheduled a vote on the administration's nominee to run the CFPB to Aug. 23, 2018.

### ***Bureau ECOA guidance voided under Review Act***

In May 2018, the president signed into law a bipartisan Congressional resolution (S.J. Res. 57) disapproving a rule that was in the form of guidance issued by the CFPB about indirect auto lender compliance with the Equal Credit Opportunity Act (ECOA) and its implementing regulation. The March 21, 2013, guidance, in CFPB Bulletin 2013-02, has been voided by the Congressional Review Act (CRA) action. The enactment of this CRA resolution does more than just undo the CFPB's guidance on indirect auto lending. It also prohibits the CFPB from ever reissuing a substantially similar rule unless specifically authorized to do so by law.

Given a recent Supreme Court decision distinguishing between antidiscrimination statutes that refer to the consequences of actions and those that refer only to the intent of the actor, and in light of the fact that the CFPB is required by statute to enforce federal consumer financial laws consistently, the CFPB will be reexamining the requirements of the ECOA.

The action also clarifies that a number of CFPB guidance documents may be considered rules for purposes of the CRA, and therefore the CFPB must submit them for review by Congress. The CFPB has stated they welcome such review, and will confer with congressional staff and federal agency partners to identify appropriate documents for submission.

### ***Bureau finally updates Regulation P***

The CFPB [announced on August 10, 2018](#), it had finalized amendments to its Regulation P to implement a December 2015 amendment to the Gramm-Leach-Bliley Act that provides financial institutions that meet certain conditions an exemption to the requirement under the GLBA to deliver an annual privacy notice. A financial institution can use the annual notice exception if it limits its sharing of customer information so that the customer does not have the right to opt out, and has not changed its privacy notice from the one previously delivered to its customer.

## TRID news

### ***Bankers calling for revisions to TRID for single-family construction loans***

The American Bankers Association (ABA) recently announced that in a letter to the Consumer Financial Protection Bureau (CFPB), more than 100 bankers from across the country called on the CFPB to revise the TILA-RESPA Integrated Disclosure (TRID) rule to exempt single-family residential construction loans from onerous disclosure requirements that have created confusion for consumers and caused many banks to exit the market. In addition to calling for revisions to TRID, bankers urged the CFPB to reduce liability enforcement until such revisions can be crafted and implemented. They also asked the CFPB to consider adopting a more straightforward disclosure process for single-family construction loans that would allow banks to provide borrowers with information about the loan amount, interest amount, term of loan and funding and disbursement schedule in any format they choose.

**Copy of letter:** [aba.com/Advocacy/LetterstoCongress/Documents/BCFP-TRID-construction-070318.pdf](http://aba.com/Advocacy/LetterstoCongress/Documents/BCFP-TRID-construction-070318.pdf).

### ***TRID guides updated***

In May 2018, the CFPB published 2018 TILA-RESPA Rule updates to both versions of the Small Entity Compliance Guides (versions 4.1 and 5.2) and Guides to Forms (versions 1.5 and 2.1).

The CFPB has updated the old version and new version of each guide to provide implementation support during the optional compliance period for the 2017 TILA-RESPA Rule.

[consumerfinance.gov/policy-compliance/guidance/implementation-guidance/tila-respa-disclosure-rule/](http://consumerfinance.gov/policy-compliance/guidance/implementation-guidance/tila-respa-disclosure-rule/)

## Flood news

### ***House passes ABA-backed flood insurance extension***

With little time to spare, the Senate on July 31, 2018, passed a measure extending the National Flood Insurance Program through Nov. 30, 2018, providing certainty for lenders and borrowers during this year's hurricane season. The 86-to-12 vote sent the extension to President Trump who subsequently signed the bill into law. The ABA President Rob Nichols welcomed the Senate's action and stated that "Avoiding a lapse in program authority will protect borrowers from closing delays, additional costs and other complications".

### ***FEMA proposes flood revisions***

On July 16, 2018, the Federal Emergency Management Agency (FEMA) proposed revisions to its flood regulations. FEMA proposes to amend parts 59, 61 and 62 of 44 CFR. These parts contain regulations implementing the NFIP. In addition, FEMA proposes to amend Appendices A(1) – A(3) of part 61, containing the three forms of the Standard Flood Insurance Policy (SFIP): the dwelling policy form, the general property form and the residential condominium building association form.

## FDIC announces updates to interagency forms

The Federal Deposit Insurance Corporation (FDIC) [FIL-38-2018](#), announced that the FDIC is implementing revisions to currently approved interagency forms, based on the recommendations of an interagency working group comprising representatives from the FDIC, the Fed, and the Office of the Comptroller of the Currency (OCC). The changes were made to improve the clarity of the requests, reflect new laws and other requirements, remove unneeded information and provide transparency for filers regarding the information required for consideration of a proposal. The updated forms can be used immediately for applicable future applications filed with the FDIC.

The changes are being made to: (a) improve the clarity of the requests; (b) reflect new laws, regulations, capital requirements and accounting rules; (c) delete information requests that have been determined to be unnecessary for the analysis of the proposal; and (d) add transparency for filers regarding the information that is required to consider a proposal.

**The FDIC is implementing revisions to and extending for a three-year period the following currently approved collections of information:**

- > [Interagency Biographical and Financial Report](#)
- > [Interagency Bank Merger Act Application](#)
- > [Interagency Notice of Change in Control](#)
- > [Interagency Notice of Change in Director or Senior Executive Officer](#)

## FRB launches new consumer compliance bulletin

The Federal Reserve Board has [announced](#) the launch of the *Consumer Compliance Supervision Bulletin* - a new publication that will provide bankers and others interested in consumer protection with high-level summaries of pertinent supervisory issues. The Bulletin complements other Federal Reserve System outreach programs for banking organizations, such as the *Consumer Compliance Outlook* publication and its companion webinar series, Outlook Live.

The Bulletin, which will be published by the Board's Division of Consumer and Community Affairs, is intended to enhance transparency regarding the Federal Reserve's consumer compliance supervisory program, and highlight violations that have been identified. It will also provide practical steps for institutions to consider when managing consumer compliance risks.

The [first issue](#) of the *Bulletin* focuses on the illegal discrimination practice known as "redlining," as well as discriminatory loan pricing and underwriting. The issue also discusses unfair or deceptive acts or practices involving overdrafts, loan officer misrepresentations and products and services marketed to students.

## Reg CC rule changes take effect

Regulation CC's final rule reflects its transition to an electronic, image-based check collection and returns environment. The amendments affect electronic check forward collections and returns, electronically created items, and expeditious-return and notice-of-nonpayment requirements. They also establish new warranties for remote deposit capture and electronically-created items. Community banks should be aware of the following Regulation CC changes effective July 1, 2018:

- > creates new definitions for electronic check, electronic returned check and electronically-created item;
- > requires that both paper and electronic checks comply with a modified version of the "two-day test";
- > includes a new condition for expeditious-return liability;
- > increases the amount required for the paying bank to provide notice of nonpayment to \$5,000 from \$2,500;
- > revises the content requirements for the notice of nonpayment and notice in lieu of return; and
- > adds a new indemnity to address liability for losses caused by remote deposit capture and by electronically-created items.

**Final rule:** [federalreserve.gov/newsevents/pressreleases/files/bcreg20170531a1.pdf](https://www.federalreserve.gov/newsevents/pressreleases/files/bcreg20170531a1.pdf).

## CRA and mortgage news

### ***2018 List of underserved or distressed areas for CRA credit***

On June 25, 2018, the Federal Reserve Board (FRB), Federal Deposit Insurance Corporation (FDIC) and the Office of the Comptroller of the Currencies (OCC) (i.e., joint agencies) announced the availability of the 2018 list of distressed or underserved nonmetropolitan middle-income geographies, where revitalization or stabilization activities are eligible to receive Community Reinvestment Act (CRA) consideration under the community development definition. The agencies apply a one-year lag period for geographies that were listed in 2017 but are no longer designated as distressed or underserved in the current release. Revitalization or stabilization activities in these geographies are eligible to receive CRA consideration under the community development definition for 12 months after publication of the current list.

List available at: [fdic.gov/news/news/press/2018/pr18038.pdf](https://www.fdic.gov/news/news/press/2018/pr18038.pdf).

### ***OCC Bulletin clarifies CRA supervisory policies and processes***

While its efforts to modernize CRA regulations proceed along a separate track, the OCC on Friday issued a bulletin to clarify current OCC policies and processes for assessing banks' CRA performance. These policy clarifications, which are effective immediately, address: implementation of full-scope and limited-scope reviews; consideration of activities that promote economic development; use of demographic, aggregate and market share data; evaluation of the borrower distribution of loans outside bank assessment areas; evaluation frequency and timing; the CRA performance evaluation period; and evaluation of home mortgage loans.

[occ.gov/news-issuances/bulletins/2018/bulletin-2018-17.html](https://www.occ.gov/news-issuances/bulletins/2018/bulletin-2018-17.html)

### ***HUD begins amending disparate-impact rule***

The Department of Housing and Urban Development (HUD) began amending its use of the disparate-impact standard to comport with limitations imposed by the U.S. Supreme Court. HUD this week issued an advance notice of proposed rulemaking seeking public input on possible amendments to its 2013 rule.

Under the rule, lenders may be held liable for neutral practices that have a disparate impact on certain classes of borrowers, even if the lenders have no intent to discriminate. In its 2015 decision in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project Inc.*, the high court held that disparate-impact cases cannot rely on statistics alone.

HUD's proposal: [federalregister.gov/documents/2018/06/20/2018-13340/reconsideration-of-huds-implementation-of-the-fair-housing-acts-disparate-impact-standard](https://www.federalregister.gov/documents/2018/06/20/2018-13340/reconsideration-of-huds-implementation-of-the-fair-housing-acts-disparate-impact-standard).

### ***Restoration of PTAFAs***

On June 21, 2018, the FRB published a consumer affairs letter entitled Restoration of the Protecting Tenants at Foreclosure Act (CA-18-4), which is a reminder that the Protecting Tenants at Foreclosure Act (PTAFA), which had expired on Dec. 31, 2014, has been restored by the Economic Growth, Regulatory Relief and Consumer Protection Act (EGRRCPA).

Section 304 of EGRRCPA, which was signed into law on May 24, 2018, restores PTAFA effective on June 23, 2018. Although the reminder was published by the Federal Reserve Board (FRB), the reinstatement of PTAFA impacts all banks, not just FRB members. The interagency examination procedures for PTAFA, previously used by the agencies, are being restored as well.

[federalreserve.gov/supervisionreg/caletters/caltr1804.pdf](https://www.federalreserve.gov/supervisionreg/caletters/caltr1804.pdf)

### ***NMLS posts annual mortgage report***

The NMLS 2017 Annual Mortgage Industry Report is now available on the organization's Reports page, along with fourth quarter 2017 Money Services Businesses Fact Sheet, Debt Collection Fact Sheet and Mortgage Update. The Money Services Businesses and Debt Collection fact sheets report the states for which NMLS manages licenses, and the numbers of such licenses recorded with NMLS.

[mortgage.nationwidelicensingsystem.org/about/Pages/Reports.aspx](https://mortgage.nationwidelicensingsystem.org/about/Pages/Reports.aspx)

## Treasury report on nonbank financials, Fintech and innovation

The U.S. Department of the Treasury on July 31, 2018, [released a report](#) identifying improvements to the regulatory landscape that will better support nonbank financial institutions, embrace financial technology and foster innovation.

“American innovation is a cornerstone of a healthy U.S. economy. Creating a regulatory environment that supports responsible innovation is crucial for economic growth and success, particularly in the financial sector,” said Secretary Steven T. Mnuchin. “America is a leader in innovation. We must keep pace with industry changes and encourage financial ingenuity to foster the nation’s vibrant financial services and technology sectors.”

The report is the treasury’s fourth report in response to Executive Order 13772. Issued by President Trump in February 2017, this E.O. calls on Treasury to identify laws and regulations that are inconsistent with the core principles for financial regulation it set forth.

In drafting the report, Treasury consulted extensively with a wide range of stakeholders focused on consumer financial data aggregation, lending, payments, credit servicing, financial technology, and innovation. Treasury’s recommendations are designed to facilitate U.S. firm innovation by streamlining and refining the regulatory environment. These improvements should enable U.S. firms to more rapidly adopt competitive technologies, safeguard consumer data and operate with greater regulatory efficiency.

## Web accessibility standards for ADA

### ***State attorneys letter to U.S Attorney General on web accessibility standards for ADA***

In a letter to Attorney General (AG) Jeff Sessions, the state Attorneys General requested that the Department of Justice clarify regulations pertaining to the web accessibility standards of the Americans with Disabilities Act (ADA). "The ADA does not provide clear guidance regarding web accessibility, yet businesses are attempting to provide high levels of website access for customers with disabilities," the state AGs write. The state AGs request that "DOJ issue a proposed rule to provide exact standards for web accessibility, and provide any guidance in the interim."

[nafcu.org/sites/default/files/state%20AGs%20letter.pdf](http://nafcu.org/sites/default/files/state%20AGs%20letter.pdf)

## OCC news

### ***OCC to accept applications from Fintech companies***

The Office of the Comptroller of the Currency (OCC) announced on July 31, 2018, it will begin accepting applications for national bank charters from non-depository financial technology (Fintech) companies engaged in the business of banking. The decision was documented in a policy statement and supplement to the OCC's Comptroller's Licensing Manual, both published on July 31, 2018.

Per Comptroller of the Currency Joseph M. Otting, "The decision to consider applications for special purpose national bank charters from innovative companies helps provide more choices to consumers and businesses, and creates greater opportunity for companies that want to provide banking services in America. Companies that provide banking services in innovative ways deserve the opportunity to pursue that business on a national scale as a federally chartered, regulated bank."

Qualifying Fintech companies also may apply for federal charters under the OCC's authority to charter full-service national banks and other special purpose banks, such as trust banks, banker's banks and credit card banks.

[occ.gov/news-issuances/news-releases/2018/nr-occ-2018-74.html](http://occ.gov/news-issuances/news-releases/2018/nr-occ-2018-74.html)

### ***OCC bulletin on use of loan to deposit ratios***

On June 15, 2018, the OCC, Fed and the Federal Deposit Insurance Corporation (FDIC) issued updated host state loan-to-deposit (LTD) ratios. The OCC has issued [Bulletin 2018-21](#) to inform national banks about how these ratios are used to determine compliance with section 109 of the Riegle–Neal Interstate Banking and Branching Efficiency Act of 1994 (IBBEA). Section 109 of the IBBEA applies to community banks that have covered interstate branches. Section 109 does not apply to federal savings associations.

The OCC regulation that implements the CRA prohibits the use of interstate branches primarily for deposit production. Specifically, 12 CFR 25, subpart E, "Prohibition Against Use of Interstate Branches Primarily for Deposit Production," implements the requirements of IBBEA section 109. The regulation includes specific tests for determining whether an interstate bank is lending appropriately in host states where it has branches.

Section 109 of the IBBEA provides a process to test compliance with the statutory requirements. The first step in the process involves an LTD ratio test that compares a bank's statewide LTD ratio with the host state LTD ratio for banks in a particular state. A second step is conducted if a bank's statewide LTD ratio is less than one-half of the published ratio for that state or if data are not available at the bank to conduct the first step. The second step requires the appropriate agency to determine whether the bank is reasonably helping to meet the credit needs of the communities served by the bank's interstate branches.

A bank that fails both steps is subject to sanctions by the appropriate agency.

***OCC issues revised capital and dividends booklet***

The Office of the Comptroller of the Currency (OCC) in July issued the [“Capital and Dividends” booklet](#) of the *Comptroller’s Handbook*. The revised booklet presents the regulatory capital framework and discusses the regulatory capital rules that define regulatory capital and establish minimum capital standards. The booklet also provides guidance to examiners for assessing banks’ capital adequacy and compliance with capital and dividend regulations.

**The revised booklet:**

- > reflects changes to the regulatory capital rule
- > reflects the integration of the Office of Thrift Supervision into the OCC
- > includes expanded examination procedures for capital, dividends, and capital adequacy
- > includes an internal control questionnaire and verification procedures
- > incorporates the information in OCC Bulletin 2012-16, “Capital Planning: Guidance for Evaluating Capital Planning and Adequacy”

## NCUA rule updates

### ***NCUA seeks expansion of payday lending alternatives***

Federal credit union members could have more options for short-term, small-dollar borrowing under a rule proposed by the National Credit Union Administration (NCUA) Board. The proposed rule would create one new product in addition to the current payday loan alternative that has been available to federally chartered credit unions since 2010. The Board also is requesting credit union stakeholders to comment on a possible third option. Published June 4, 2018, with 60-day comment period.

### ***NCUA adjusts member business lending rule***

Federally insured credit unions will no longer have to count loans made on any 1-to-4-unit family dwellings as member business loans after a vote by the National Credit Union Administration Board. As such, these loans will not count towards the aggregate member business loan cap imposed on each federally insured credit union.

The final rule, available online [here](#), will become effective upon publication in the Federal Register.

The Board unanimously approved, by notation vote on May 30, 2018, a change to the member business lending rule that removes the member's occupancy requirement for loans secured by liens on 1-to-4-unit family dwellings. The member business lending rule previously required those dwellings to be the primary residence of a member in order to be excluded.

The NCUA Board approved the change to make the member business lending rule conform with changes to the Federal Credit Union Act incorporated into the Economic Growth, Regulatory Relief and Consumer Protection Act of 2018, signed into law by President Donald J. Trump on May 24, 2018.

## BSA news

### ***SAR e-filing system changes***

The Financial Crimes Enforcement Network (FinCEN) released the following changes to the Bank Secrecy Act (BSA) e-filing system production environment:

- a) FinCEN posted the new discrete entry form version (v1.2) of the FinCEN Suspicious Activity Report (SAR) for download/submission;
- b) FinCEN began accepting batch files containing the new FinCEN SAR in the new FinCEN 2.0 Extensible Markup Language (XML) schema format;
- c) FinCEN updated the FinCEN Currency Transaction Report (CTR) XML batch schema to prohibit certain unwanted characters/formatting for all elements values in the batch, specifically leading and trailing spaces, carriage returns, line feeds, and horizontal tabs. If any value contains one or more instances of the above unwanted characters/formatting, the batch submission will be REJECTED by the application beginning July 27, 2018 (these restrictions will also be applied to FinCEN SAR and FinCEN FBAR XML batch submission).

FinCEN will continue to accept the existing FinCEN SAR discrete form as well as the existing ASCII based batch format; however, beginning on Jan. 1, 2019, FinCEN will only accept the new FinCEN SAR discrete form and the new XML based batch format.

### ***New customer due diligence and beneficial ownership examination procedures***

In May 2018, the effective date of the beneficial ownership requirements, the Federal Financial Institutions Examination Council (FFIEC) issued new examination procedures on the final rule, “Customer Due Diligence Requirements for Financial Institutions,” issued by the FinCEN. The examination procedures apply to banks, savings and loan associations, savings associations, credit unions and branches, agencies and representative offices of foreign banks.

The new examination procedures replace those in the current “Customer Due Diligence — Overview and Examination Procedures” section of the FFIEC’s Bank Secrecy Act/Anti-Money Laundering Examination Manual. In addition, a new overview and examination procedures were developed for the beneficial ownership requirements for legal entity customers.

For more information regarding the new procedures please refer to the following sections of the FFIEC BSA/AML Examination Manual:

#### **Customer Due Diligence – Overview and Examination Procedures:**

[ffiec.gov/press/pdf/Customer%20Due%20Diligence%20-%20Overview%20and%20Exam%20Procedures-FINAL.pdf](https://ffiec.gov/press/pdf/Customer%20Due%20Diligence%20-%20Overview%20and%20Exam%20Procedures-FINAL.pdf).

#### **Beneficial Ownership for Legal Entity Customers – Overview and Examination Procedures:**

[ffiec.gov/press/pdf/Beneficial%20Ownership%20Requirements%20for%20Legal%20Entity%20Customers%20Overview-FINAL.pdf](https://ffiec.gov/press/pdf/Beneficial%20Ownership%20Requirements%20for%20Legal%20Entity%20Customers%20Overview-FINAL.pdf).

### ***FinCEN delay of beneficial ownership rule for rollovers and renewals***

In May 2018, five days after the effective date of its beneficial ownership requirements rule, FinCEN issued [Administrative Ruling 2018-R002](#), granting a 90-day limited exceptive relief to covered financial institutions with respect to certificates of deposit and loan accounts that automatically roll over or renew that were established before May 11, 2018. The 90-day relief period started on May 11 and was slated to come to an end on Aug. 9, 2018. The ruling had stated that, during this time, "FinCEN will determine whether and to what extent additional exceptive relief may be appropriate for such financial products and services that were established before May 11, 2018, but are expected to rollover or renew after such date." FinCEN has now announced a 30-day extension of the limited exceptive relief that was to expire on Aug. 9, 2018. FinCEN Ruling [FIN-2018-R003](#) extends the exceptive relief up to, and including, Sept. 8, 2018.

### ***G20 finance ministers and central bank governors meeting***

G20 Finance Ministers and Central Bank Governors at their meeting in Buenos Aires from Jul 21-22, 2018, recognized the real and growing money laundering and terrorist financing risks from crypto-assets and the urgency of action to address these risks; they reiterated their determination to fight money laundering and terrorist financing, and they called on the Financial Action Task Force on Money Laundering (FATF) to take further action to counter proliferation financing.

The FATF President, Marshall Billingslea, briefed Finance Ministers and Central Bank Governors on these risks and the work FATF will be doing under the U.S. presidency. The G20 asked the FATF to clarify in October 2018, how its standards apply to crypto assets.

The [communiqué](#) highlights G20 countries' individual and collective commitment to the full and effective implementation of the FATF standards.

The FATF will prioritize work on combating the financing of the proliferation of weapons of mass destruction, further strengthening efforts to combat the financing of terrorism and taking action to promote a more consistent and effective regulation of virtual currencies and other crypto assets.

### ***Agencies issue North Korean advisory***

The U.S. Department of State, with Treasury and Homeland Security, have issued an [advisory](#) to highlight the sanctions evasion tactics used by North Korea that could expose businesses – including manufacturers, buyers, and service providers – to sanctions compliance risks under U.S. or United Nations sanctions authorities. This advisory also assists businesses in complying with the requirements under the Korean Interdiction and Modernization of Sanctions Act of the Countering America's Adversaries Through Sanctions Act.

## ***Global Magnitsky sanctions regulations added and Sudan regulations removed***

The Office of Foreign Assets Control (OFAC) announced the publication of [Global Magnitsky Sanctions Regulations](#), the removal of the [Sudan Regulations](#) and the amendment of the Terrorism List Government Sanctions Regulations to incorporate a general license.

- > Global Magnitsky Sanctions Regulations [83 FR 30541](#)
- > Removal of Sudanese Sanctions Regulations and amendment of Terrorism List Government Sanctions Regulations [83 FR 30539](#)

## ***Executive order regarding Venezuelan transactions***

The president has issued an [Executive Order](#), "Prohibiting Certain Additional Transactions with Respect to Venezuela." All transactions related to, provision of financing for, and other dealings in the following by a United States person or within the United States are prohibited:

- > the purchase of any debt owed to the Government of Venezuela, including accounts receivable;
- > any debt owed to the Government of Venezuela that is pledged as collateral after the effective date (12:30 p.m. ET on May 21, 2018) of the order, including accounts receivable; and
- > the sale, transfer, assignment, or pledging as collateral by the Government of Venezuela of any equity interest in any entity in which the Government of Venezuela has a 50 percent or greater ownership interest.

## ***OFAC targets network for Syrian weapons program***

The Treasury has [announced](#) that OFAC yesterday designated 13 persons under Executive Order 13382 of June 28, 2005, "Blocking Property of Weapons of Mass Destruction Proliferators and Their Supporters." Treasury said the five entities and eight individuals designated are key components of a network procuring electronics on behalf of Syria's Scientific Studies and Research Center (SSRC), the agency responsible for the development of Syria's chemical weapons. OFAC also removed four listings for Estonian Credit Bank and its aliases.

## ***New OFAC Ukraine-Russia related FAQs***

Two [new Frequently Asked Questions \(FAQs\)](#) relating to U.S. Ukraine-/Russia-related sanctions have been published by OFAC to provide guidance on (i) U.S. persons' ability to receive payments of principal and interest from blocked persons for a preexisting loan or bond, and (ii) the sanctions implications for a foreign company paying dividends to a blocked person who is a minority shareholder.

## The penalty box

### ***FRB orders Kentucky bank to pay \$4.75M restitution***

The Federal Reserve Board (FRB) on July 26, 2018, issued a consent order against Community Trust Bank, Inc. of Pikeville, Kentucky, for unfair and deceptive practices, requiring the bank to pay approximately \$4.75 million in restitution to approximately 11,000 consumers and make certain consumer compliance enhancements.

As detailed in the consent order, the bank violated Section 5 of the Federal Trade Commission Act in its offering of deposit account add-on products to consumers. The bank represented to consumers that all of the add-on product benefits would be effective upon enrollment when, in fact, consumers had to take additional steps to receive some of their benefits. The bank did not adequately disclose the additional steps prior to enrollment and did not explain to consumers that they would be billed regardless of benefit activation.

The bank must begin making restitution payments to consumers after regulatory non-objection to the restitution plan, which is due within 60 days of the issuance of the consent order.

### ***TCF to pay \$25M to customers***

The Consumer Financial Protection Bureau (CFPB) has [announced](#) the filing of a proposed settlement with TCF National Bank related to the bank's marketing and sale of overdraft services. TCF is headquartered in Wayzata, Minnesota, and operates approximately 318 retail branches across Minnesota, Wisconsin, Illinois, Michigan, Colorado, Arizona and South Dakota.

Banks are required to obtain a consumer's consent before they can lawfully charge overdraft fees on one-time debit purchases and ATM withdrawals. The Bureau alleged in its lawsuit that, when attempting to obtain this consent, TCF obscured the fees it charged and made consenting to overdraft fees seem mandatory for new customers to open an account. TCF has agreed to pay \$25 million in restitution to customers who were charged overdraft fees and has agreed to an injunction to prevent future violations.

The proposed order, filed Friday, would also impose a civil money penalty of \$5 million. This penalty would be adjusted to account for a \$3 million penalty imposed by the OCC in a separate order.

### ***CFPB orders restitution of \$335 million by Citibank***

The CFPB has announced that it has issued a consent order of restitution to Citibank, N.A., for violating the Truth in Lending Act by failing to reevaluate and reduce the annual percentage rates (APRs) for approximately 1.75 million consumer credit card accounts consistent with regulatory requirements, and by failing to have reasonable written policies and procedures to conduct the APR reevaluations consistent with regulation. Under the terms of the consent order, Citibank must correct these practices and pay \$335 million in restitution to consumers affected by these practices. The Bureau did not assess civil money penalties based on a number of factors, including that Citibank self-identified and self-reported the violations to the Bureau, and self-initiated remediation to affected consumers.

### ***PNC Bank, NA pays \$15M in UDAP penalties***

The OCC has issued a Consent Order for a Civil Money Penalty of \$15,000,000 paid by PNC Bank, NA, for deficiencies in the Bank's practices that resulted in violations of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1) related to the failure to (i) waive certain fees as represented in disclosures and (ii) to provide overdraft protection transfers from a linked account within the time period represented in on-line disclosures.

### ***FDIC enforcement actions***

The FDIC released a list of orders of administrative enforcement actions taken against banks and individuals in the spring. There were three consent orders; seven Section 19 orders; five civil money penalties; six terminations of consent orders; three orders of restitution; and one decision and order dismissing a December 2015 notice of intention to prohibit from further participation, notice of charges, notice of assessment of civil money penalties, and order to pay.

- > A civil money penalty of \$2 million and order for approximately \$1.3 million in restitution was imposed on The Bancorp Bank, Wilmington, Delaware.
- > Cross River Bank, Teaneck, NJ, and an institutional affiliate, Freedom Financial Asset Management, LLC, were ordered to pay \$1.1 million in civil money penalties and approximately \$20 million in restitution.
- > Flood Act penalties of \$46,800 and \$10,100 were imposed on banks in Monroe, MI and Wildwood, NJ, respectively.

The FDIC also released a list of 12 orders for administrative enforcement actions taken against banks and individuals in June.

## Webinars/Podcasts

### ***Implementing a Smarter Multi-layered Approach to KYC and ID Verification***

**Presented by:** ACAMS

**Speakers:** Rosalie Griebel, Director of Product Management, CSI Regulatory Compliance

**Date:** Tuesday, August 28, 2018

**Time:** 12 – 1 p.m. ET

**Learning objectives:**

- > Overcoming challenges associated with customers' identities, customer risk and fraudulent behavior
- > Defining multi-layered KYC and identity verification, and the need for a more complex approach
- > Identifying which technology options enhance (or impede) verifying identities and assessing risk
- > Utilizing machine learning as part of an identity verification and sanctions compliance program

**Link:** [acams.org/webinar-implementing-a-smarter-multi-layered-approach-to-kyc-and-id-verification/](https://acams.org/webinar-implementing-a-smarter-multi-layered-approach-to-kyc-and-id-verification/)

### ***Emerging Fraud Trends and Protecting Your Bottom Line***

**Presented by:** Bankers ToolBox

**Speakers:** Andres Tapia, CAMS Senior Risk Management Consultant

**Date:** Thursday August 30

**Time:** 2PM EST

**Learning objectives:**

- > The latest trends in fraud that you need to be aware of
- > Tips on how you can adjust your program to better detect fraud
- > What tools and tricks criminals are using... and how to stop them

**Link:** [bankerstoolbox.com/TLFraudTrends](https://bankerstoolbox.com/TLFraudTrends)

## ***BSA/AML Investigation Best Practices and Quality Control***

**Presented by:** Bankers ToolBox

**Speakers:** Susan Senterfitt, Senior Financial Crimes Investigator

**Date:** On Demand

Are you properly handling your alerts and cases during the investigation process? Do you know how a case differs from an alert? In this webinar, Susan Senterfitt will walk you through BSA/AML investigation best practices and quality control measures to ensure your BSA program remains compliant.

**Link:** [bankerstoolbox.com/resources/webinars/investigation-best-practices-and-quality-control/](http://bankerstoolbox.com/resources/webinars/investigation-best-practices-and-quality-control/)