

Compliance Monthly



June 2018

Compliance Monthly is intended to keep you informed of regulatory changes in advance of their effective date so your institution can have the necessary policies, procedures and processes in place to be compliant at the time of enactment. Information contained in Compliance Monthly is not intended to provide specific advice and guidance. You should consult your own professional services provider in connection with matters affecting your own interests.

Finalized Rules:

FinCEN Temporarily Delays Beneficial Ownership Requirements for Rollovers & Automatic Renewals and Grants Relief for Premium Finance Cash Refunds

FinCEN announced a temporary suspension of the application of the beneficial ownership requirements for certificate of deposit rollovers and loans that renew automatically. The relief is retroactive to the May 11 compliance date and will continue until August 9, 2018. During that time, FinCEN will re-evaluate the requirement to determine if more permanent relief is needed.

FinCEN also issued an Administrative Ruling (FIN-2018-R001) to provide exceptive relief to covered financial institutions with respect to the application of the Beneficial Ownership Requirements for Legal Entity Customers to premium finance lending products that allow for cash refunds.

CFPB Finalizes TRID Rule Amendment

The CFPB finalized an amendment to fix an issue with the TILA-RESPA integrated disclosure rules that caused consumers to face delays because of legitimate fee changes during the origination process. The final rule will allow creditors to use either initial or corrected closing disclosures to reflect changes in costs for purposes of determining if an estimated closing cost was disclosed in good faith, regardless of when the closing disclosure was provided relative to consummation. It also removes the four-day business limit for resetting tolerances that exists in current law. The rule is effective June 1, 2018.



David Smith,
Compliance
Director

Proposed Rules:

CFPB Proposes Federal Oversight of Nonbank Auto Finance Companies

The CFPB is proposing to oversee larger nonbank auto finance companies for the first time at the federal level. The proposed rule would generally allow the CFPB to supervise nonbank auto finance companies that make, acquire, or refinance 10,000 or more loans or leases in a year. The CFPB also released a supervisory highlights report that details the auto-lending discrimination that the CFPB has uncovered at banks.

Other Compliance News:

Regulatory Reform Bill Signed into Law

President Trump signed S. 2155; the new law is a critical first step toward bringing regulatory relief to financial institutions. The bill will:

- Provide Qualified Mortgage designation for most mortgages held in portfolio by banks with less than \$10 billion in assets
- Relieve banks that originated fewer than 500 mortgage loans per year from the expanded HMDA data points
- Raise the threshold for designation as a systemically important financial institution from \$50 billion in assets
- Apply principles of tailored supervision to larger banks
- End mandated stress tests for banks with under \$100 billion in assets
- Simplify capital calculations for community banks
- Provide relief from appraisal requirements for smaller mortgages in rural areas
- Institute longer exam cycles for community banks
- Provide charter flexibility for federal thrifts with less than \$20 billion in assets
- Provide relief from the Volcker Rule for most community banks
- Makes the expired Protecting Tenants at Foreclosure Act a permanent rule

CFPB Updates Rulemaking Agenda for Remainder of 2018, Early 2019

The CFPB updated its rulemaking agenda for the remainder of 2018. The CFPB removed from the list its plans to pursue a rulemaking related to overdraft, noting that there was no evidence to support additional regulatory activity in this area. In June, the CFPB expects to issue a final rule on Regulation P, which will incorporate a new legal exception to the annual privacy notice banks are required to send. The CFPB will also propose a joint rule with the Federal Reserve board that would implement section 1068 of the Dodd-Frank Act.

The CFPB's plans for 2019 include a HMDA proposal in January, a new proposal on small dollar lending in February, and a proposal on third-party debt collection in March. Pre-rulemaking activities on a small business lending data rule should begin in the spring of 2019.

Agencies Release Exam Procedures for Beneficial Ownership Rule

The federal banking agencies issued new exam procedures for the rule. One set of exam procedures on customer due diligence replaces those in the current Bank Secrecy Act/anti-money laundering exam manual, and another set provides exam procedures for the new beneficial ownership requirements.

OCC Issues New Exam Guidance on Military Lending Act

OCC Bulletin 2018-11 announced a new "Military Lending Act" booklet for the *Comptroller's Handbook*. The new booklet replaces and rescinds the "Limitations on Terms of Consumer Credit Extended to Servicemembers and Dependents" procedures that were found in the "Other Consumer Protection Laws and Regulations" booklet of the *Handbook*.

FinCEN Reminds CTR Filers of Batch Filing Deadline

FinCEN issued a notice to remind financial institutions that Currency Transaction Reports (CTRs) will no longer be accepted in ACSII format effective June 1, 2018. Financial institutions that batch file must file using the new XML format. If a financial institution is unable, then it must revert to the discrete option to file its reports until it is able to file using the new XML format.

CFPB Updates TRID Compliance Resources

The CFPB has updated its two versions of the *Small Entity Compliance Guides* and *Guides to Forms* to incorporate the changes made by the 2018 TRID rule (which becomes effective June 1, 2018). Due to the 2017 TRID Rule's optional compliance period, which ends October 1, 2018, the CFPB has kept an old version and new version of each guide to provide implementation support during the optional compliance period. However, it has updated all versions for the 2018 TRID Rule, which will apply whether or not a creditor is choosing to comply early with the 2017 Rule.

CFPB ECOA Guidance Voided Under Review Act

The president has signed S.J. Res. 57, a resolution of disapproval under the Congressional Review Act (CRA) of the rule issued by the CFPB in the form of guidance concerning indirect automobile lender compliance with the ECOA and Regulation B. The March 21, 2013, guidance, in CFPB Bulletin 2013-02, has been voided by the CRA action. The CFPB's 2013 indirect auto lending guidance sought to impose limits on how and what indirect lenders pay car dealers who provide financing and how much discretion dealers have to set loan terms and rates. The CFPB is now banned from reissuing a substantially similar rule unless specifically authorized to do so by law.

OCC Urges Banks to Meet Consumer Needs for Small Loans

OCC Bulletin 2018-14 encourages national banks and federal savings associations to offer responsible short-term, small-dollar installment loans, typically two to 12 months in duration with equal amortizing payments, to help meet the credit needs of consumers. Banks are encouraged to refer to the core lending principles in the Bulletin when making such loans, and to discuss plans to offer short-term, small-dollar lending products with their OCC portfolio manager, examiner-in-charge, or supervisory office before

implementation, particularly if the offerings constitute substantial deviations from their existing business plans.

The bulletin does not define how banks should underwrite small-dollar loans, but notes that small-dollar lending programs should be consistent with safe and sound banking practices, include an effective risk management framework and be underwritten based on reasonable policies and practices, which may include analysis of internal and external data sources such as the borrower's deposit activity with the bank. It also calls for banks to report repayment activity of small-dollar loan customers to the credit bureaus to help borrowers improve their credit scores.

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 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 proposed new "PALs II" option would differ from PALs I by modifying the minimum and maximum amount of the loans, modifying the number of loans a member can receive in a rolling six-month period, eliminating the minimum membership requirement, and increasing the maximum maturity for these loans. The Board also is requesting credit union stakeholders to comment on a possible third option.