

# Compliance Monthly



May 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:

### **Agencies Finalize Rule Raising CRE Appraisal Threshold**

The Federal Reserve, FDIC and the OCC approved a final rule raising the required appraisal thresholds for commercial real estate transactions from \$250,000 to \$500,000. This represents an increase from the original proposal, which called for the appraisal threshold to be raised to \$400,000. Under the final rule, the threshold for loans secured by one-to-four family residential properties will remain at \$250,000; however, residential construction loans secured by multiple one-to-four residential properties would be considered CRE transactions. The increase was approved in response to concerns that the threshold had not changed with increasing commercial real estate values in the 24 years since it was first imposed and concerns about reducing regulatory burden. The rule was effective April 9th.

## Proposed Rules:

None.

## Other Compliance News:

### **CFPB Issues Final Requests for Information**

The CFPB has announced the tenth, eleventh and twelve Call for Evidence series of Requests for Information (RFI) to ensure the CFPB is fulfilling its proper and appropriate functions. The 10<sup>th</sup> RFI seeks comments and information from interested parties to assist in assessing the overall effectiveness and accessibility of its guidance materials and activities, including implementation support. Comments are due by July 2, 2018.



**David Smith,**  
Compliance  
Director

The 11<sup>th</sup> RFI seeks feedback on the overall effectiveness of the CFPB's financial education programs, which are one of the six primary functions of the CFPB under the Dodd-Frank Act. Specifically, the CFPB requested comments on how to improve existing programs and delivery approaches; how better to evaluate the CFPB's programs; and how to minimize duplication of programs offered by other federal agencies and non-government entities. Comments are due by July 9, 2018.

The 12<sup>th</sup> and final RFI seeks feedback on CFPB handling of consumer complaints and inquiries. The public is invited to submit comments on how the CFPB is collecting and monitoring responses to consumer complaints and how it responds. Comments are due by July 9, 2018.

### **SCRA Notice Updated**

HUD has updated the Servicemembers Civil Relief Act (SCRA) Notice which had previously expired on December 31, 2017. The new notice (Form 92070) is available on HUD's website and has an expiration date of March 31, 2020. Banks should start using the new form as soon as possible.

### **CFPB Issues Small Entity Compliance Guide for Final Servicing Rule**

The CFPB has posted an updated Small Entity Compliance Guide (version 3.1) for its Mortgage Servicing Rule. The latest version incorporates the changes made by the CFPB's March 8, 2018 amendments to the rule, such as information on the single-statement exemption for periodic statements provided to borrowers in bankruptcy. The CFPB also added a mortgage servicing coverage chart to the tools on its Implementation and Guidance page for the Mortgage Servicing Rule.

### **Treasury Issues Recommendations for CRA Modernization**

The Treasury Department has released recommendations to the OCC, FRB, and FDIC for modernization of their regulatory activity related to the Community Reinvestment Act (CRA). Treasury indicated its objective in developing the recommendations is to better align CRA activity with the needs of the communities that banks serve, while it is being conducted in a manner consistent with a bank's safety and soundness.

Treasury's recommendations focused on four key areas, including redefining geographic assessment areas, increasing transparency around the rating process, improving the examination process and incentivizing CRA performance. Acknowledging numerous changes in banking law and technology that have taken place since CRA's enactment in 1977, Treasury recommended that the agencies provide greater flexibility when determining CRA assessment areas, expand the range of products that are eligible to receive CRA credit and consider alternative delivery channels when conducting CRA evaluations, among other things. **It is expected that** an advance notice of proposed rulemaking will be issued from regulatory agencies in the days ahead.

### **FinCEN Publishes Long-Awaited FAQs on Beneficial Ownership Rule**

The Financial Crimes Enforcement Network published a long-expected set of frequently asked questions on expanded customer due diligence requirements under the Bank Secrecy Act, including a new requirement for banks to identify and verify legal entities' "beneficial owners" when accounts are opened. Supplementing a set of FAQs issued in 2016, the 37 new FAQs respond to many questions that have been raised by the industry since the rule was adopted. Now that the FinCEN FAQs have been issued, the federal banking agencies are expected to release their examination procedures in the coming days.

### **FFIEC Statement on Cyber Insurance**

The FDIC has announced an FFIEC joint statement addressing factors to consider regarding cyber insurance. Statement highlights include:

- The FFIEC members (Federal Reserve Board, OCC and the FDIC) do not require financial institutions to maintain cyber insurance. Cyber insurance could offset financial losses from a variety of exposures—including data breaches resulting in the loss of confidential information—that may not be covered by more traditional insurance policies.
- Traditional general liability insurance policies may not provide effective coverage for all potential exposures caused by cyber events.
- Cyber insurance does not replace a sound and effective risk management program.

The FFIEC statement does not contain any new regulatory expectations. It is intended to provide awareness of the potential role of cyber insurance in financial institutions' risk management programs.

### **CFPB Plan for Upcoming Rules**

As part of its most recent semi-annual report to Congress, the CFPB listed its plans for upcoming rules.

- "Payday loans" rule: The CFPB intends to open a rulemaking to reconsider the 2017 final rule. The current rule's applicable compliance date isn't until August 2019.
- Regulation CC: The CFPB intends to work with the Federal Reserve to issue jointly a rule that addresses provisions within the CFPB's purview (those affecting funds availability and disclosures).
- Debt collection: The agency will work toward releasing a proposal concerning FDCPA collectors' communications practices and consumer disclosures.
- HMDA: The CFPB intends to open a rulemaking to reconsider various aspects of the 2015 rule, which could involve issues such as the institutional and transactional coverage tests and the rule's discretionary data points (those not specifically mandated by HMDA as amended by the Dodd-Frank Act).
- Regulation P: The CFPB is working toward finalizing an amendment to the regulation on annual notice requirements.
- Regulation Z: The CFPB also intends to finalize a proposed amendment related to the use of closing disclosures to determine good faith disclosure of estimated closing costs.