

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:

Permanent Relief from Beneficial Ownership Rule for Certain Transactions

FinCEN issued a ruling (FIN-2018-R003) granting permanent exceptive relief from Beneficial Ownership requirements for legal entity customers for certain account rollovers, renewals, modifications and extensions. The permanent relief broadens the scope of relief provided by the temporary ruling, but maintains strict definitional limits on which accounts are affected. Financial institutions will continue to be required to identify and verify the identity of beneficial owners of legal entity customers at the initial account opening of all accounts (including those affected by the exceptive relief) occurring on or after May 11, 2018. The exceptive relief applies to:

- A rollover of a certificate of deposit that does not allow additional deposits during its term;
- A renewal, modification, or extension of a loan (e.g., setting a later payoff date) that does not require underwriting review and approval;
- A renewal, modification, or extension of a commercial line of credit or credit card account (e.g., a later payoff date is set) that does not require underwriting review and approval; and
- A renewal of a safe deposit box rental.

Fed Approves Changes to Regulation CC

The Federal Reserve approved changes to Regulation CC's liability provisions to address situations involving a dispute about whether portions of an electronic check have been altered or whether the item is a forgery. When the original check is not available, the final amendments update Regulation CC to include a presumption that a substitute or electronic check was altered in certain cases of doubt. The presumption applies only to disputes between banks and only when one bank has transferred an electronic or substitute check to the other bank. The changes take effect January 1, 2019.



**David Smith,
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Director**

CFPB Updates Model Disclosure Forms to Reflect Changes to FCRA

The CFPB issued an interim final rule making changes to two model disclosure forms (summary of consumer rights and summary of identity theft rights) to reflect changes made to the Fair Credit Reporting Act by S. 2155, the new regulatory reform law. The law requires consumer reporting agencies to provide consumers with the ability to freeze their credit free of charge and for consumers to be notified of the security freeze right when receiving either of the two disclosures. It also extends to one year the minimum time that reporting agencies must include an initial fraud alert in a consumer's file, which alerts prospective lenders that the consumer may have been a victim of identity theft. The changes became effective September 21, 2018.

Agencies Publish Details on Extended CRA Examination Cycle

The OCC, FDIC and Federal Reserve published an interagency interim final rule amending the regulations governing eligibility for the 18-month on-site examination cycle, pursuant to the Economic Growth, Regulatory Relief, and Consumer Protection Act (Economic Growth Act). The rule makes qualifying 1- and 2-rated national banks, federal savings associations, and federal branches and agencies with less than \$3 billion in total assets eligible for an 18-month (rather than a 12-month) examination cycle.

Proposed Rules:

OCC Proposes Business Flexibility for Federal Savings Associations

The OCC has announced it has approved a proposed rule that would provide more business flexibility to federal savings associations. The OCC will publish a notice of, and request for comment on, the proposed rule in the Federal Register, with a 60-day comment period. The proposed rule would implement section 206 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. The Act requires the OCC to issue regulations to allow federal savings associations with total consolidated assets of \$20 billion or less as of December 31, 2017, to elect to operate with national bank powers. Federal savings associations that make the election generally would have the same rights and privileges as a national bank and be subject to the same duties, restrictions, penalties, liabilities, conditions, and limitations that apply to national banks.

Federal Reserve Amends Regulations H & K

The Federal Reserve Board has requested public comment on a proposal to amend Regulation H and Regulation K to repeal provisions that incorporate the Secure and Fair Enforcement for Mortgage Licensing Act (S.A.F.E. Act). The proposal reflects the transfer of the Board's rulemaking authority for the S.A.F.E. Act to the CFPB. Entities that were subject to the Board's rules are now subject to the CFPB's rules. Comments on the proposal will be accepted for 60 days following publication in the Federal Register.

Other Compliance News:

Regulators Confirm Role of Supervisory Guidance

The Fed, CFPB, FDIC, NCUA, and OCC issued a joint statement explaining the role of supervisory guidance for regulated institutions. The statement confirms that supervisory guidance does not have the force and effect of law, and the agencies do not take enforcement actions based on supervisory guidance. It also explains that supervisory guidance can outline the agencies' supervisory expectations or priorities and articulate the agencies' general views regarding appropriate practices for a given subject area.

OCC Updates Deposit-Related Credit Booklet

OCC Bulletin 2018-28 announces an update of the Deposit-Related Credit Booklet of the Comptroller's Handbook. The update:

- Provides general guidance on the risks associated with deposit-related credit products, such as check credit, overdraft protection, and deposit advance products
- Includes updates due to the rescission of OCC Bulletin 2013-40, "Deposit Advance Products: Final Supervisory Guidance," and the issuance of OCC Bulletin 2018-14, "Installment Lending: Core Lending Principles for Short-Term, Small-Dollar Installment Lending"
- Provides information regarding the Military Lending Act as implemented by the U.S. Department of Defense's 32 CFR 232.
- Incorporates references for OCC Bulletin 2017-21, "Third-Party Relationships: Frequently Asked Questions to Supplement OCC Bulletin 2013-29," and OCC Bulletin 2017-43, "New, Modified, or Expanded Bank Products and Services: Risk Management Principles."
- Incorporates the prohibition in the Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010 against unfair, deceptive, or abusive acts or practices.