

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:

New Rating System for Large Financial Institutions

The Federal Reserve finalized a new supervisory rating scale for large bank holding companies to better align the ratings system with its existing supervisory program. The new rating system will apply to all domestic bank holding companies and non-insurance, non-commercial savings and loan holding companies with \$100 billion or more in total consolidated assets, which is a change from the \$50 billion threshold originally proposed. The new rating system will also apply to U.S. intermediate holding companies of foreign banking organizations with \$50 billion or more in total consolidated assets. The new scale assigns ratings for capital planning, liquidity risk management and governance and controls. Banks will be assigned ratings in each category, rather than receiving a standalone composite rating, and each category must be highly rated for the bank holding company to be considered “well-managed.” The rule is effective February 1, 2019.

Fed Realigns Regulation J with Regulation CC

The Federal Reserve Board has approved final amendments to simplify Regulation J (Collection of Checks and Other Items by Federal Reserve Banks and Funds Transfers through Fedwire) and to make it conform more closely with Regulation CC (Availability of Funds and Collection of Checks), which was recently updated for the check collection framework to reflect a system that is now largely electronic. It also clarifies that financial messaging standards for Fedwire transfers do not confer or connote legal status or responsibilities with respect to Fedwire funds transfers. The amendments become effective January 1, 2019.



**David Smith,
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Dollar Thresholds for Exempt Transactions Increase

Financial regulators announced that the dollar threshold at which higher-priced mortgages become subject to requirements will increase from \$26,000 to \$26,700 in 2019. The Federal Reserve and the Consumer Financial Protection Bureau (CFPB) also stated that the threshold under which consumer credit and lease transactions under Regulation Z (Truth in Lending Act) and Regulation M (Consumer Leasing Act) are exempt will increase from \$55,800 to \$57,200 in 2019.

Proposed Rules:

Changes to Regulation CC & Comments on 2011 Proposal

The Federal Reserve Board and CFPB have jointly announced proposed amendments to the Board's Regulation CC that would implement a statutory requirement to adjust for inflation the amount of funds depository institutions must make available to their customers. The amendments would apply in circumstances ranging from next business day withdrawal of certain check deposits to setting the threshold amount for determining whether an account has been repeatedly withdrawn. The Dodd-Frank Act amendments to the Expedited Funds Availability Act (EFA Act) require that the EFA Act's dollar amounts be adjusted for inflation every five years by the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). The first set of proposed adjustments are detailed in the proposal. To help ensure that institutions have sufficient time to implement the adjustments, the agencies propose a compliance date that would be at least 12 months after publication of a final rule in the Federal Register. Comments are due 60 days after publication.

The agencies also propose to implement in Regulation CC the EFA Act amendments made by the Economic Growth, Regulatory Relief, and Consumer Protection Act, which include extending coverage of the EFA Act to American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam.

The agencies are also reopening public comment on certain funds-availability amendments in subpart B of Regulation CC that the Board published in 2011 regarding funds availability schedule provisions and associated definitions. In taking this step, the agencies have not made a decision on whether to make any aspects of the 2011 proposal final. Reopening the comment period will provide the agencies with up-to-date public views to consider.

Agencies Issue Proposal to Reduce Call Report Burden on Small Institutions

The financial regulatory agencies proposed changes that would expand the number of banks eligible to file a more streamlined version of the Call Report, as directed by S. 2155, the new regulatory reform law. Under the proposal, non-complex institutions with less than \$5 billion in assets would be permitted to file the FFIEC 051 Call Report. Banks filing the FFIEC 051 Call Report would also see a reduction of the number of data items required in their first and third quarter filings. Comments are due January 18, 2019.

Agencies Propose Raising Residential Real Estate Appraisal Threshold to \$400K

The financial regulatory agencies issued a proposal that would raise the appraisal threshold for residential real estate transactions from \$250,000 to \$400,000. Under the proposal, transactions that qualified for the exemption would still need to obtain an evaluation consistent with safe and sound banking practices. The evaluation would provide an estimate of the market value of the property but would not be required to be prepared by a state licensed or certified appraiser and would be less detailed and costly than an appraisal.

The proposal also would incorporate the rural residential appraisal exemption in the Economic Growth, Regulatory Relief and Consumer Protection Act to the list of exempt transactions and require evaluations for these exempt transactions. In addition, the proposal would require institutions to appropriately review appraisals for compliance with the Uniform Standards of Professional Appraisal Practice, as mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act. Comments on the proposal will be due 60 days after publication in the Federal Register.

Fed Proposes Tailored Supervisory Approach for Largest Banks

The Federal Reserve issued its proposed framework for applying enhanced prudential standards to banking firms with \$100 billion or more in assets, as required by S. 2155, the regulatory reform law. The Fed proposed to establish four categories of standards that seek to reflect the risks of firms in the group. The agency outlined the risk-based indicators it would use to determine the applicability of standards, including size, cross-jurisdictional activity, weighted short-term wholesale funding, nonbank assets and off-balance sheet exposure.

In addition, the Fed released a second joint proposal with the OCC and FDIC that would tailor requirements under the regulatory capital rule, the Liquidity Coverage Ratio and the proposed Net Stable Funding Ratio rule for banks in each group. The proposal would also amend certain prudential standards, including standards relating to liquidity, risk management, stress testing, and single-counterparty credit limits, to reflect the risk profiles of banking organizations under each proposed category of standards and would apply prudential standards to certain large savings and loan holding companies using the same categories. In addition, the proposal would make corresponding changes to reporting forms. Comments are due by January 22, 2019.

FDIC Proposes Nine Percent Leverage Ratio as Threshold for Basel III Exemption

The FDIC voted to propose that community banks with a leverage capital ratio of at least 9 percent may be automatically considered in compliance with Basel III capital requirements and exempt from the complex Basel calculations. The rulemaking is mandated by the S. 2155 regulatory reform law, which directed agencies to set a community bank leverage ratio between 8 and 10 percent. Under the proposed rule, banks with less than \$10 billion in assets would be able to elect the community bank leverage ratio framework if they meet the 9 percent ratio and if they hold 25 or less percent of assets in off-balance sheet exposures, 5 percent or less of assets in trading assets and liabilities, 25 percent or less in mortgage servicing assets and 25 percent or less in temporary difference deferred tax assets. The proposal provides details about the calculation of the community bank leverage ratio, the election process and how the agencies would handle situations when banks' leverage ratios deteriorate and when Prompt Corrective Action is required. A firm would also be considered to have met the capital ratio requirements to be well capitalized for the agencies' prompt corrective action rules provided it has a

community bank leverage ratio greater than 9 percent. Comments will accepted for 60 days after publication in the Federal Register.

Other Compliance News:

FFIEC Statement on OFAC Cyber Sanctions

The members of the Federal Financial Institutions Examination Council (FFIEC) have issued a joint statement alerting financial institutions to recent actions taken by the Department of Treasury's Office of Foreign Asset Control (OFAC) under their Cyber-Related Sanctions Program and to the potential impact it may have on financial institutions' risk-management programs. The statement describes the issues a financial institution should consider regarding the effect of sanctions on the operations of the financial institution and the implications of the continued use of products or services provided by a sanctioned entity, some of which claim they are U.S. based and offer services to U.S. financial institutions.

FDIC Seeks Information on Small-Dollar Loans

The FDIC is seeking public feedback on the steps it can take to encourage FDIC-supervised banks to offer small-dollar credit products to meet the needs of consumers. Specifically, the FDIC is seeking information about consumer demand for small-dollar credit products, features and characteristics of these products, and the benefits and risks to banks offering them. The FDIC is also interested in the challenges that stand in the way of banks' ability to offer small-dollar credit products, how technology can play a role in offering these products or assessing the creditworthiness of potential borrowers, and how alternative products or services could supplement or complement small-dollar credit offerings. Comments are due January 22, 2019.

FFIEC Releases Cybersecurity Resource Guide

The FFIEC has released a Cybersecurity Resource Guide for Financial Institutions that provides an overview of resources designed to assist in financial sector resilience. Included in the guide are the Financial Services Sector Specific Cybersecurity Profile, which provides a common, credible approach to cybersecurity and assessment, and Sheltered Harbor, an industry-wide effort to improve sector-wide resilience.