

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 Update CRA Asset-Size Thresholds

The financial regulatory agencies announced the annual adjustment to the asset-size thresholds they will use to differentiate small and intermediate banks and savings associations under the Community Reinvestment Act. A “small bank” or “small savings association” will be defined as an institution that, as of December 31st of either of the prior two calendar years, had assets of less than \$1.284 billion. An “intermediate small bank” or “intermediate small savings association” will be defined as a small institution with assets of at least \$321 million as of December 31st of both of the prior two calendar years, and less than \$1.284 billion as of December 31st either of the prior two calendar years. These adjustments will be effective January 1, 2019.

Proposed Rules:

Agencies Propose Rule Exempting Community Banks from Volcker Rule

The financial regulatory agencies issued a proposed rule to implement a section of the S. 2155 regulatory reform law that grants an exemption from the Volcker Rule for community banks. To qualify for the exemption, community banks and their controlling entities must have \$10 billion or less in total consolidated assets as well as trading assets and liabilities of five percent or less of total consolidated assets. Because the exemption became effective upon the law’s implementation, the agencies in June stated they would no longer enforce the Volcker Rule for those banks while waiting for the rulemaking to be finalized. The FDIC issued FIL-86-2018 regarding the proposal. Comments are due 60 days following publication in the Federal Register.



**David Smith,
Compliance
Director**

IRS Issues Base Erosion Proposal; Addresses FATCA

The IRS issued a long-awaited proposal interpreting a section of last year's tax reform law that seeks to combat tax avoidance through deductible payments made in the U.S. into other tax jurisdictions. The Base Erosion and Anti-Abuse Tax, or BEAT, applies to taxpayers that meet certain gross receipt and cross-border payment thresholds and can effectively act as a minimum tax. These provisions can have implications for both U.S. and foreign-owned banks with international operations and that make cross-border payments.

Among other things, the proposal provides definitions and operational guidance on which taxpayers are subject to the tax; the amount of BEAT payments; and how the tax will be calculated. Of particular importance to affected banks is the exclusion of interest payments on total loss-absorbing capacity debt from the BEAT payment definitions. Comments are due by February 19, 2019.

The IRS also issued a proposal intended to reduce the regulatory burden with respect to the Foreign Account Tax Compliance Act and other reporting requirements. The proposal would eliminate withholding requirements on gross proceeds paid to certain foreign entities from the sales or other dispositions of property that could produce interest or dividends from sources within the U.S. It also includes a delay on pass-through payment withholding requirements; relief from treaty statement documentation; and rules related to refunds and credits of amounts withheld. Comments are due by February 19, 2019.

Regulators Propose Update to Management Interlock Rules

The financial regulatory agencies issued a joint proposal to raise the threshold at which bank directors or other management officials are prohibited from serving at more than one depository institution or holding company. Currently, directors or management officials working at an institution with more than \$2.5 billion in total assets may not simultaneously serve at an unaffiliated depository organization with more than \$1.5 billion in total assets. The proposal would raise both of those thresholds to \$10 billion in total assets. Comments on the proposal are due 60 days after publication in the Federal Register.

Proposal to Amend Stress Testing Rules

The OCC and the FDIC have issued notices of proposed rulemaking to amend the stress testing rule consistent with requirements imposed by section 401 of the Economic Growth, Regulatory Relief, and Consumer Protection Act. The proposed rule would revise the minimum threshold for national banks and federal savings associations to conduct stress tests from \$10 billion to \$250 billion, revise the frequency by which certain national banks and federal savings associations would be required to conduct stress tests, reduce the number of required stress testing scenarios from three to two, and make certain additional facilitating and conforming changes to the stress testing requirements. Comments Are due by February 19, 2019.

Other Compliance News:

Flood Program Extended

President Trump has signed a stand-alone bill to reauthorize the National Flood Insurance Program (NFIP) until May 31, 2019. There are no changes to the NFIP in the bill.

Beta HMDA Platform for 2018 Data Available

The CFPB has announced the beta launch of the HMDA Platform for data collected in 2018. The beta release provides financial institutions an opportunity to become familiar with the HMDA Platform and, in particular, determine whether their sample LAR data complies with the reporting requirements outlined in the Filing Instructions Guide for HMDA data collected in 2018. During the beta period, financial institutions may test and retest 2018 HMDA data files as often as desired. All test data uploaded during the beta period will be removed from the system when the filing period opens in January 2019.

FinCEN Extends FBAR Deadline

FinCEN has announced a further extension of time for certain Report of Foreign Bank and Financial Accounts (FBAR) filings in light of the notice of proposed rulemaking FinCEN issued on March 10, 2016, which proposes to revise the regulations implementing the Bank Secrecy Act (BSA) regarding FBARs. Specifically, one of the proposed amendments would expand and clarify the exemptions for certain U.S. persons with signature or other authority over foreign financial accounts. This proposed amendment seeks to address questions raised regarding the filing requirement and its application to the individuals with signature authority over, but no financial interest in, certain types of accounts as outlined in its previous extension notice.