

February 2020 | Volume 18 | Number 2

When there is a deadline associated with an item, you will see this graphic: 

‘Late February days; and now, at last, might you have thought that winter’s woe was past; so fair the sky was and so soft the air.’ – William Morris

Joint federal agency issuances, actions and news

Home Mortgage Disclosure Act (HMDA): FFIEC Issues 2020 Version of A Guide to HMDA Reporting: Getting It Right! (02.12.2020) 

The Federal Financial Institutions Examination Council (FFIEC) has issued the 2020 edition of A Guide to HMDA Reporting Getting It Right! for Home Mortgage Disclosure Act-related data collected in 2020 and reported in 2021. This compliance resource can help financial institutions better understand HMDA requirements, including the data collection and reporting provisions.

Source [link](#).

Comment: The guide addresses the collection of data under the Home Mortgage Disclosure Act (HMDA) during 2020 that must be reported in 2021. This is an excellent tool for HMDA compliance. It is particularly important now in providing resources to the most recent revisions!

Shared National Credit Review Finds Risk Remains Elevated in Leveraged Loans (01.31.2020)

WASHINGTON—Federal bank regulatory agencies find that the share and amount of loan commitments with the lowest supervisory ratings rose slightly between 2018 and 2019, according to the Shared National Credit (SNC) Program Review. Total commitments with low ratings remain elevated compared to lows reached during prior periods of strong economic performance.

The report, which was released by the Federal Reserve Board, the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC), reflects reviews primarily covering SNC loans originated on or before June 30, 2019. It finds that credit risk associated with leveraged lending remains elevated. Lenders have fewer protections and risks have increased in leveraged loan terms through the current long period of economic expansion since the last recession. Most banks have adopted credit risk-management practices to monitor and control this evolving risk. However, some of these controls have not been tested in an economic downturn. The agencies require banks to have risk-management processes that can identify and adapt to changing market conditions.

The 2019 SNC portfolio included 5,474 borrowers, totaling \$4.8 trillion, up from \$4.4 trillion in 2018. U.S. banks held the greatest volume of SNC commitments at 44.4 percent of the portfolio, followed by foreign banking organizations and other investor entities such as securitization pools, hedge funds, insurance companies, and pension funds. Total commitments

increased by \$396 billion, or 8.9 percent, from third quarter of 2018 to the third quarter of 2019. Growth was concentrated in investment grade equivalent transactions. The number of borrowers and facilities increased modestly in 2019 after a sizeable decline in 2018 associated with an increase in the minimum commitment threshold to \$100 million that was effective January 1, 2018.

Loan commitments were reviewed and grouped into four categories by the severity of their risk, from less severe to more severe: special mention, substandard, doubtful, or loss. The last three of which are known as “classified.” Overall, the level of loans rated below “pass” as a percentage of the total SNC portfolio increased slightly from 6.7 percent to 6.9 percent. Bank-identified leveraged loan commitments represent 49 percent of total SNC commitments. Leveraged lending was the primary contributor to the overall special mention and classified rates. Investors outside the banking industry held the greatest volume of special mention and classified commitments, followed by U.S. banks and foreign banking organizations.

The agencies conduct SNC reviews in the first and third calendar quarters with some banks receiving two reviews and others receiving a single review each year. The agencies issue a single statement annually that includes combined findings from the previous 12 months. This practice presents a complete view of the entire SNC portfolio, which can be compared with prior years’ reports. The next report will be published following the third quarter 2020 SNC examination.

For additional information, see the attached SNC Program Review Report.

Attachment:

[SNC Program Review Report \(PDF\).](#)

Source [link](#).

Comment: Overall, regulators found that the quality of examined SNC has recovered, following broader improvements in several industries. Still, the dollar amount of loans rated below “pass,” as a percentage of total loans, remains elevated compared to levels in prior economic cycles.

CFPB actions and news

CFPB Announces Policy Regarding Prohibition on Abusive Acts or Practices (01.24.2020)

WASHINGTON, D.C. – The Consumer Financial Protection Bureau (Bureau) issued a policy statement providing a common-sense framework on how it intends to apply the “abusiveness” standard in supervision and enforcement matters. The Dodd-Frank Act is the first Federal law to broadly prohibit “abusive” acts or practices in connection with the provision of consumer financial products or services. However, nearly a decade after the Act became law, uncertainty remains as to the scope and meaning of abusiveness. This uncertainty creates challenges for covered persons in complying with the law and may impede or deter the provision of otherwise lawful financial products or services that could be beneficial to consumers.

Through this policy statement, the Bureau is providing clarification on how it intends to apply abusiveness in order to promote compliance and certainty. Commencing immediately the Bureau intends to apply the following principles during supervision and enforcement work by:

- Focusing on citing or challenging conduct as abusive in supervision and enforcement matters only when the harm to consumers outweighs the benefit;
- Generally avoiding “dual pleading” of abusiveness and unfairness or deception violations arising from all or nearly all the same facts, and alleging “stand alone” abusiveness violations that demonstrate clearly the nexus between cited facts and the Bureau’s legal analysis; and
- Seeking monetary relief for abusiveness only when there has been a lack of a good-faith effort to comply with the law, except the Bureau will continue to seek restitution for injured consumers regardless of whether a company acted in good faith or bad faith.

“I am committed to ensuring we have clear rules of the road and fostering a culture of compliance – a key element in

preventing consumer harm,” said CFPB Director Kathleen Kraninger. “We’ve developed a policy that provides a solid framework to prevent consumer harm while promoting the clarity needed to foster consumer beneficial products as well as compliance in the marketplace, now and in the future.”

In the policy statement, the Bureau leaves open the possibility of engaging in a future rulemaking to further define the abusiveness standard.

Last year, the Bureau held a Symposium on Abusive Acts or Practices with academics and practitioners. These experts provided a variety of perspectives on the need and benefits in developing a clearer understanding of the abusiveness standard; most agreed that the Bureau should seek to resolve the uncertainty. The symposium, along with other feedback from stakeholders, was an important part of the process leading to the Bureau’s decision to issue the policy statement. The symposium archive webcast can be found here: <https://www.consumerfinance.gov/about-us/events/archive-past-events/cfpb-symposium-abusive-acts-or-practices/>

To read the policy statement please click here: https://files.consumerfinance.gov/f/documents/cfpb_abusiveness-enforcement-policy_statement.pdf.

Source [link](#).

Comment: The statement clarifies an approach that has been used both by the Bureau as well as by the FTC, focusing on weighing consumer benefits and burdens. The Bureau indicates that going forward it will strive to provide more transparency and specificity as to the “nexus” and “specific factual basis” for abusiveness claims. The statement emphasizes that the good faith is not an affirmative defense and will not preclude pursuit of other “legal or equitable remedies, such as damages and restitution, to redress identifiable consumer injury caused by the abusive acts or practices that would not otherwise be redressed.” And while this policy statement relieves some anxiety about the use of the abusiveness standard there is still no “bright line” test for this concept.

CFPB Publishes Updated HMDA Small Entity Compliance Guide (01.24.2020)

On January 24, 2020, the Bureau published an updated [HMDA Small Entity Compliance Guide](#) that incorporates content from the [HMDA Final Rule](#) issued on October 10, 2019.

Source [link](#).

Comment: These Small Entity Compliance Guides have proven to be valuable resources.

FDIC actions and news

FDIC Announces Members for the Advisory Committee of State Regulators (02.19.2020)

WASHINGTON – The Federal Deposit Insurance Corporation (FDIC) has announced the selection of 15 members for its recently established Advisory Committee of State Regulators. The FDIC Board of Directors approved the formation of the new Advisory Committee on November 19, 2019, as another mechanism for state regulators and the FDIC to discuss a variety of current and emerging issues that have potential implications for the regulation and supervision of state-chartered financial institutions. The Advisory Committee members include regulators of state-chartered financial institutions from across the United States as well as other individuals with expertise in the regulation of state-chartered financial institutions.

“State supervisors play a crucial role in our regulatory framework,” said Chairman McWilliams. “While the FDIC has had a good relationship with state supervisors, this Advisory Committee will serve as a formal venue to engage on issues pertinent to state-chartered banks.”

The new members of the Advisory Committee are:

- Bret Afdahl, Director, Division of Banking, State of South Dakota
- Kevin R. Allard, Superintendent, Division of Financial Institutions, State of Ohio
- Charles G. Cooper, Commissioner, Department of Banking, State of Texas
- Thomas C. Fite, Director, Department of Financial Institutions, State of Indiana
- Mary L. Gallagher, Commissioner of Banks, Commonwealth of Massachusetts
- Greg Gonzales, Commissioner, Department of Financial Institutions, State of Tennessee
- Ray Grace, Commissioner of Banks, State of North Carolina
- Kevin B. Hagler, Commissioner, Department of Banking and Finance, State of Georgia
- Melanie G. Hall, Commissioner, Division of Banking and Financial Institutions, State of Montana
- Dawn E. Holstein, Commissioner of Banking, Division of Financial Institutions, State of West Virginia
- Lise Kruse, Commissioner, Department of Financial Institutions, State of North Dakota
- Edward Leary, Commissioner, Department of Financial Institutions, State of Utah
- John Ryan, President and Chief Executive Officer, Conference of State Bank Supervisors
- Antonio P. Salazar, Commissioner, Office of the Commissioner of Financial Regulation, State of Maryland
- Mick Thompson, Commissioner, Banking Department, State of Oklahoma

Source [link](#).

Comment: Congratulations to each of the Directors and Commissioners!

FDIC NPR - Unsafe and Unsound Banking Practices: Brokered Deposits Restrictions (02.10.2020)

The FDIC is inviting comment on proposed revisions to its regulations relating to the brokered deposits restrictions that apply to less than well capitalized insured depository institutions. The proposed rule would create a new framework for analyzing certain provisions of the “deposit broker” definition, including “facilitating” and “primary purpose.” The proposed rule would also establish an application and reporting process with respect to the primary purpose exception. The application process would be available to insured depository institutions and third parties that wish to utilize the exception.

DATES: Comments must be received by the FDIC no later than April 10, 2020.

Source [link](#).

Comment: The FDIC has claimed that these revisions will provide greater transparency for this thorny area. Unfortunately, the new definition’s inclusion of “facilitating” in particular creates significant expansion of the concept of brokered deposits. As written, it appears to make virtually all third-party service providers relating to deposit products potentially deposit brokers, rendering the resulting deposits all “brokered” ones subject to increased capital and reporting obligations.

FDIC Issues Procedures for Deposit Insurance Applications from Applicants that are Not Traditional Community Banks (02.10.2020)

The FDIC has released a supplement to its Deposit Insurance Application Procedures Manual (Procedures Manual) that addresses deposit insurance applications involving unique or complex proposals. The FDIC has also released updated versions of the Procedures Manual and the publication titled Applying for Deposit Insurance – A Handbook for Organizers of De Novo Institutions (Handbook). Collectively, these publications comprehensively address the deposit insurance application process.

Highlights:

- The supplement addresses matters relevant to deposit insurance proposals from applicants that are not traditional community banks. It includes definitions of the terms “non-bank” and “non-community bank,” and addresses the following main topics: application review processes, field investigations, evaluation of the statutory factors, approval conditions, and written agreements. The supplement does not establish new policy or guidance, or modify existing policy or guidance.
- The FDIC has also updated the Procedures Manual, which provides instruction to FDIC staff regarding the deposit insurance application process, and the Handbook, which addresses the informational needs of organizers of de novo institutions.
- These publications address matters pertinent to all types of deposit insurance applications, including pre-filing activities, the application process, and pre-opening efforts.
- The updates to the Procedures Manual and the Handbook primarily represent technical edits and clarifications.
- In response to industry feedback, the FDIC has modified its commonly imposed conditions requiring prior approval of business plan changes, to instead require prior notice in most cases.
- These publications are intended to provide transparency and clarity to the industry and other interested parties regarding the FDIC’s deposit insurance application processes.
- Information regarding deposit insurance applications matters that was clarified in previously issued FILs has been incorporated, as appropriate, into the supplement, the Procedures Manual, and the Handbook; as such, FILs 51-2019, 24-2016, and 56-2014 are hereby rescinded.
- The FDIC’s Applications Mailbox (ApplicationsMailbox@fdic.gov) is an additional means by which bankers, applicants, and other interested parties may pose questions regarding a specific application or the application process. Interested parties should continue to submit comments regarding pending applications through the [FDIC’s website](#).

Source [link](#).

Comment: While it is reassuring that appropriate procedures will be applied to deposit-insurance applications for nontraditional entities, this also opens the door wider for fintech expansion into banking.

FDIC Publishes Comprehensive History of Risk-Based Pricing (02.03.2020)

WASHINGTON – In the first of a series of staff studies to be released to the public, the Federal Deposit Insurance Corporation (FDIC) published a comprehensive history of how the agency assessed banks to build FDIC’s now 85-year-old Deposit Insurance Fund (DIF) and help achieve its mission of protecting depositors and resolving failed banks. A History of Risk-Based Premiums at the FDIC chronicles the evolution of how the agency has set premiums that reflect the risk banks pose to the DIF, without relying upon taxpayer support.

The study traces the decisions and motivations behind this evolution—from an assessment system where all banks paid the same rate to the risk-based system in place today. For nearly 60 years, the FDIC assessed all insured institutions at the same rate, regardless of the degree of risk they posed to the fund. Following banking crises in the 1980s and early 1990s, Congress required the FDIC to implement its first risk-based system in 1993, based on an institution’s capital levels and

supervisory ratings. Since then, the FDIC has incorporated data and experience gained over nearly 25 years—including two banking crises—with the goal of improving the system and making assessments fairer and more accurate.

From the first risk-based approach to the most recent changes implemented in 2016, the study also dives into the policy debates leading to each change, how the assessment system was revised to incorporate new experience, and the FDIC's evaluation of the changes against the system in place at the time. As the banking industry evolves, the FDIC will continue to monitor the assessment system's ability to measure risk and consider ways to improve risk-based pricing.

FDIC will publish future papers on an ongoing basis by FDIC researchers, staff, and Center for Financial Research Advisors and Scholars covering a wide range of banking topics of general interest.

Source [link](#).

Banker Webinar: Community Bank Leverage Ratio Framework (02.03.2020)

The FDIC will host a webinar on February 25, 2020, from 2:00 p.m. to 3:30 p.m., Eastern Time (ET) to discuss the optional community bank leverage ratio (CBLR) capital framework for qualifying FDIC-supervised institutions.

Highlights:

The FDIC will host a webinar on Tuesday, February 25, 2020, from 2:00 p.m. to 3:30 p.m., ET to address the optional CBLR capital framework prior to the completion of the first quarter 2020 reporting period for qualifying FDIC-supervised institutions.

Participants can join the webinar event using the following link: <https://www.mymeetings.com/nc/join.php?i=PWXW9878343&p=2730474&t=c>.

Participants may dial-in to the webinar by calling 888-970-4194; participant passcode 2730474.

Participants are asked to join the webinar 20 minutes before it begins.

A question-and-answer session will follow the presentation. We encourage participants to submit questions via email before the webinar to regulatorycapital@fdic.gov or during the webinar to rac@fdic.gov.

Bankers can find more information about CBLR compliance in the [Community Bank Guide](#).

Source [link](#).

Comment: Back in September 2019 the FDIC published a 'fact sheet' overview of the Community Bank Leverage Ratio. That one-page 'fact sheet' might be helpful during the webinar and can be found [here](#).

Advisory: Prudent Management of Agricultural Lending During Economic Cycles (01.28.2020)

Between 2010 and 2015, the U.S. agricultural industry enjoyed generally robust economic conditions. More recently, the industry has been experiencing low commodity prices, trade and tariff uncertainties, impacts from adverse weather conditions, and global supply and demand issues. This advisory reminds financial institutions engaged in agricultural lending to maintain sound underwriting standards, strong credit administration practices, effective risk management strategies, and appropriate allowances for losses and capital levels through the credit cycle. When agricultural borrowers experience financial difficulties, the FDIC encourages financial institutions to work constructively with borrowers to strengthen the credit and mitigate loss.

Highlights:

- Interagency Guidelines Establishing Standards for Safety and Soundness, promulgated pursuant to Section 39 of the Federal Deposit Insurance Act, indicate that all insured institutions should have, among other things, a system of effective internal controls, appropriate loan documentation practices, prudent underwriting practices, and a system of ongoing credit and asset quality reviews.
- Agricultural lenders should maintain prudent risk management practices that focus on a borrower's cash flow and repayment capacity. Lenders should also carefully consider, but not overly rely on, collateral positions and credit enhancements.
- Management should identify and effectively manage credit concentrations. Strong risk identification and control practices should be in place as credit risk profiles elevate.
- Lenders should consider and monitor key cyclical and economic factors before and after making credit decisions.
- Lenders should work constructively with agricultural borrowers experiencing financial difficulties, including utilizing reasonable debt restructuring approaches based on long-term viable business plans.
- This FIL rescinds and replaces FIL-39-2014, Prudent Management of Agricultural Credits Through Economic Cycles, dated July 16, 2014.

Source [link](#).

Comment: The Winter 2010 edition of the FDIC's 'Supervisory Insights' included a section entitled 'From the Examiner's Desk: Managing Agricultural Credit Concentrations.' Those credit risk management practices for agricultural credits remain relevant. For a copy of that resource, click [here](#).

OCC actions and news

OCC CRA Modernization Video (02.12.2020)

This [short video](#) explains the benefits of modernizing Community Reinvestment Act (CRA) regulations in basic terms and highlights the four basic changes to CRA regulations that can help drive more lending and investment to communities that banks serve, including low- and moderate-income neighborhoods. The Office of the Comptroller of the Currency encourages all stakeholders to read the [notice of proposed rulemaking](#) released by the Federal Deposit Insurance Corporation and the OCC and provide their comment to make the final rule even stronger. Comments are due March 9, 2020.

Comment: While the video is really a sales pitch for the proposed revisions to the CRA rules, it is also an interesting overview of CRA generally!

OCC Hosts Risk Governance and Compliance Workshops in Washington, D.C. (01.28.2020)

WASHINGTON — The Office of the Comptroller of the Currency (OCC) will host two workshops at OCC Headquarters in Washington, D.C., March 17 and 18, for directors of national community banks and federal savings associations supervised by the OCC.

The Risk Governance workshop on March 17 combines lectures, discussion, and exercises to provide practical information for directors to effectively measure and manage risks. The workshop also focuses on the OCC's approach to risk-based supervision and major risks in the financial industry.

The Compliance Risk workshop on March 18 combines lectures, discussion, and exercises on the critical elements of an effective compliance risk management program. The workshop also focuses on major compliance risks and critical regulations. Topics of discussion include the Bank Secrecy Act, Flood Disaster Protection Act, Fair Lending, Home Mortgage Disclosure Act, Community Reinvestment Act, and other compliance hot topics.

The workshop fee is \$99 and open to directors of national community banks and federal savings associations supervised by the OCC. Participants receive course materials and assorted supervisory publications. The workshop is limited to the first 35 registrants.

The workshop is one of 30 offered nationwide to enhance and expand the skills of national community bank and federal savings association directors. To register for this workshop, visit www.occ.gov/occworkshops.

Source [link](#).

Comment: These director workshops are excellent training opportunities.

OCC Hosts Credit Risk and Operational Risk Workshops in New Orleans (01.27.2020)

WASHINGTON — The Office of the Comptroller of the Currency will host two workshops at the Embassy Suites by Hilton in New Orleans, March 3-4, for directors of national community banks and federal savings associations supervised by the OCC.

The Credit Risk workshop on March 3 focuses on credit risk within the loan portfolio, such as identifying trends and recognizing problems. The workshop also covers the roles of the board and management, how to stay informed of changes in credit risk, and how to effect change.

The Operational Risk workshop on March 4 focuses on the key components of operational risk—people, processes, and systems. The workshop also covers governance, third-party risk, vendor management, and cybersecurity.

The workshop fee is \$99 and open to directors of national community banks and federal savings associations supervised by the OCC. Participants receive course materials and assorted supervisory publications. The workshop is limited to the first 35 registrants.

The workshop is one of 30 offered nationwide to enhance and expand the skills of national community bank and federal savings association directors. To register for this workshop, visit www.occ.gov/occworkshops.

Source [link](#).

Comment: These director workshops are excellent training opportunities.

Federal Reserve actions and news

Senior Loan Officer Opinion Survey on Bank Lending Practices (02.03.2020)

The July 2019 Senior Loan Officer Opinion Survey on Bank Lending Practices addressed changes in the standards and terms on, and demand for, bank loans to businesses and households over the past three months, which generally corresponds to the second quarter of 2019.

Regarding loans to businesses, banks indicated that, on balance, they left their standards basically unchanged on commercial and industrial (C&I) loans to large and middle-market firms, while standards eased for such loans to small firms. Most terms were reportedly eased on C&I loans across firm size categories. In addition, banks reportedly tightened standards over the past three months across all three major commercial real estate (CRE) loan categories—construction and land development loans, nonfarm nonresidential loans, and multifamily loans.

Meanwhile, banks reported basically unchanged demand for C&I loans from large and middle-market firms and weaker demand from small firms. Loan demand for construction and land development loans reportedly weakened, while demand for other CRE loan types remained basically unchanged during the same period.

For loans to households, banks reported that standards on credit card loans tightened, on net, while standards reportedly remained basically unchanged on auto loans and most categories of residential real estate (RRE) loans. Banks reported stronger demand for credit card loans, auto loans, and almost all categories of RRE loans.

Banks also responded to a set of special questions inquiring about the current level of lending standards relative to the midpoint of the range over which banks' standards have varied since 2005. Banks, on balance, reported that their lending standards on C&I loans are currently at the easier end of the range of standards between 2005 and the present. For CRE loans, most RRE loans, subprime credit card loans, and subprime auto loans, banks reported currently having relatively tighter levels of lending standards on net.

Source [link](#).

Comment: The Senior Loan Officer Opinion Survey on Bank Lending Practices is a quarterly survey of approximately 60 large domestic banks and 24 U.S. branches and agencies of foreign banks that is conducted by the Federal Reserve. Questions in the survey cover changes in the standards and terms of the banks' lending and the state of business and household demand for loans. The survey often includes questions on one or two other topics of current interest—such as changes in the supply of, and demand for, bank loans to businesses and households.

Other federal action and news

FTC: Fraud Alerts & Credit Freezes: What's the Difference? (02.13.2020)

Looking for ways to protect your identity? Two options to consider are fraud alerts and credit freezes. But what's the difference?

A [fraud alert](#) makes companies verify your identity before granting new credit in your name. Usually, that means calling you to check if you're really trying to open a new account. Placing a fraud alert is easy – you contact any one of the three nationwide credit reporting agencies (Equifax, Experian, TransUnion) and that one must notify the other two. A fraud alert is free and lasts one year.

A [credit freeze](#) limits access to your credit report so no one, including you, can open new accounts until the freeze is lifted. To be fully protected, you must place a freeze with each of the three credit reporting agencies. You'll usually get a PIN or password to use each time you place or lift the freeze. A credit freeze is free and lasts until you lift it.

Which is right for you? It depends on your personal circumstances. Both fraud alerts and credit freezes can make it harder for identity thieves to open new accounts in your name. With a fraud alert, you keep access to your credit. But freezes are generally best for people who aren't planning to take out new credit. Often, that includes older adults, people under guardianship, and children.

To place a fraud alert or credit freeze, use the credit bureau contact information listed below. Want to share what you've learned about fraud alerts and credit freezes? [Order these free flyers](#) to hand out in your community.

Source [link](#).

Comment: This excellent FTC material is free to use and good additions to a bank's financial literacy outreach. Consider adding to your website and obtaining the flyers for the bank lobby.

CSBS Releases Comprehensive Look at Consumer Finance Industry and Regulation (02.13.2020)

Washington, D.C. – The Conference of State Bank Supervisors (CSBS) released a survey of consumer lending laws and regulations of all 50 states and Washington, D.C., alongside a new policy paper that examines the nonbank consumer finance marketplace.

John Ryan, CSBS president and CEO: “These resources offer a comprehensive look at the current state of U.S. consumer finance: the history of the industry and current supervision in the whitepaper and a nationwide look at similarities and differences across licensing schemes in the survey. The information is vital to states looking to craft more uniform requirements and to industry, particularly new entrants, policymakers and consumer groups searching for a verified summary of state compliance requirements.”

The survey of consumer finance licensing laws identifies state licensing and lending requirements for consumer loans as defined by state statutes. It includes business activities that trigger a need for a consumer loan license, major license requirements, statutorily mandated loan terms and limits on fees and charges.

All information contained in the survey is verified by the relevant state regulatory authority. The information will be updated on an annual basis and expanded to include usury restrictions.

[Consumer Finance Survey](#) Highlights:

- Almost all states have minimum financial requirements: net worth or assets and/or surety bonds.
- 29 states manage consumer loan licenses through NMLS.
- 13 states’ laws have applicability to commercial small business lending.
- Seven states require an in-state physical presence.
- No state has a minimum loan amount, and the maximum ranges from \$1,500 to \$92,500.

The state consumer law survey is one of 11 commitments state regulators made to strengthen and streamline state regulation based on CSBS Fintech Industry Advisory Panel recommendations. It is also a key part of CSBS Vision 2020, a bundle of initiatives driving toward a more uniform and networked system of nonbank licensing and supervision.

The overview of nonbank consumer finance focuses on personal, auto, student, small dollar and payday loans, as well as online and fintech lending. It is part of an ongoing series titled [Reengineering Nonbank Supervision](#).

[Overview of Nonbank Consumer Finance](#) Key Findings:

- Outstanding student loan balances are estimated at \$1.6 trillion owed by approximately 45 million consumers.
- Personal loan balances (secured and unsecured credit combined) were at an all-time high of over \$305 billion mid-year 2019, a growth of 46 percent in the last four years.
- Millennials have the highest level of debt overall (avg. \$134,323), and Baby Boomers carry the second highest level (avg. \$95,095).
- Spurred by fintech online loans, outstanding unsecured personal loan balances increased to \$148 billion in the second quarter of 2019, up 222 percent from 2012.

Source [link](#).

FinCEN CTR (Form 112) Reporting of Certain Currency Transactions for Sole Proprietorships and Legal Entities Operating Under a “Doing Business As” (“DBA”) Name (02.10.2020)

Effective April 6, 2020, this ruling replaces and rescinds two rulings: FIN-2006-R003 and FIN-2008-R001. The rescinded rulings were based on the now obsolete FinCEN Form 104. The Financial Crimes Enforcement Network (“FinCEN”) is issuing this administrative ruling to clarify the Currency Transaction Report (“CTR”), FinCEN Form 112 filing obligations when reporting transactions involving sole proprietorships.

Source [link](#).

Comment: Note that this advisory replaces earlier ones on this issue. Update CTR procedures in accordance.

FTC: The Bottom-Line on Fake Checks Scams (02.10.2020)

If someone you don't know sends you a check and asks for money back, that's a scam.

[Fake checks](#) drive many types of scams — like those involving phony job and income opportunities, online classified ads, sales, and others. In a fake check scam, a person you don't know asks you to deposit a check — sometimes for several thousand dollars and usually for more than you are owed — and send some of the money back, often by wire transfers or gift cards, to them or another person. The scammers always have a good story to explain the overpayment. They might say they're stuck out of the country, they need you to cover taxes or fees, you'll need to buy supplies, or something else.

By law, banks have to make deposited funds available quickly — you'll usually see the money in your account within a day or two. But it may take weeks for your bank to learn the check was bad. By that time, the scammer has the money you sent, and you're stuck paying the bank back.

Over the last several years, the number of fake check scams reported to the FTC has steadily increased, and so have the dollars lost. In its most recent Data Spotlight, [Don't bank on a "cleared" check](#), the FTC reports that consumers lost more than \$28 million to fake check scams in 2019 alone. The median loss reported was \$1,988. That's more than six times the median loss on all frauds tracked by the FTC. What's more, reports about fake check scams are up by about 65% over 2015 levels. The FTC found that younger people are hit especially hard. In 2019, people in their twenties were more than twice as likely as people 30 and older to report losing money to a fake check scam.

Want to learn more? Visit ftc.gov/fakechecks

Source [link](#).

Comment: This material is good financial literacy material. Consider adding to your bank website. ICBA is offering a two-day 'Fraud Seminar' in San Antonio on April 2-3. For registration information, click [here](#).

CSBS Sets 2020 Legislative Priorities (01.22.2020)

Washington, D.C.: CSBS President and CEO John W. Ryan announced legislative priorities for state regulators. They are to:

- Amend the Bank Service Company Act: H.R. 241, the Bank Service Company Examination Coordination Act, would enhance coordination between state and federal regulators of examinations of bank third-party service providers. As banks seek to innovate to better serve their customers, community banks in particular engage a variety of vendors. This bill makes the oversight of those vendors more efficient and effective. The House unanimously passed the legislation in September 2019. We encourage the Senate to take up this issue expeditiously.
- Strengthen Bank Secrecy Act/Anti-Money Laundering reform proposals: Last October, the House passed by voice vote legislation to reform BSA/AML. Both the House passed bill (H.R. 2514) and the primary bill in the Senate under consideration (S. 2563) appropriately incorporate state regulators and their integral role in BSA/AML supervision.
- Advocate that any data security proposals follow precedent of setting federal floor, not ceiling, so states can take further action: Any federal proposal relating to the collection, use and protection of consumer data must preserve the role for state leadership in the areas of data privacy, security and control.
- Oppose federal legislation that preempts state licensing and/or supervisory authority over financial services: Any such legislation needs to recognize the role of state regulators and their responsibility for markets and consumer protection. The SAFE Act, for example, established a set of common standards for state implementation and ongoing oversight.
- Support federal law regarding the nomination of someone with state bank supervisory experience to the FDIC Board: We will continue to ask Congress and the White House to uphold the Federal Deposit Insurance Act's requirement that at least one member of the FDIC Board have state bank supervisory experience.

John Ryan: "CSBS and state regulators connect with members of Congress in both parties and both chambers on a daily basis. In the upcoming year, we will collaborate on legislative solutions that can strengthen our system of state financial

regulation to more effectively oversee state-chartered banks and state-licensed nonbanks. A network of supervision is better for the financial entities we oversee and ultimately the communities we serve.”

Source [link](#).

Publications, articles, reports, studies, testimony & speeches

G.17 Industrial Production (02.14.2020)

Industrial production declined 0.3 percent in January, as unseasonably warm weather held down the output of utilities and as a major manufacturer significantly slowed production of civilian aircraft. The index for manufacturing edged down 0.1 percent in January; excluding the production of aircraft and parts, factory output advanced 0.3 percent. The index for mining rose 1.2 percent. At 109.2 percent of its 2012 average, total industrial production was 0.8 percent lower in January than it was a year earlier. Capacity utilization for the industrial sector fell 0.3 percentage point in January to 76.8 percent, a rate that is 3.0 percentage points below its long-run (1972–2019) average.

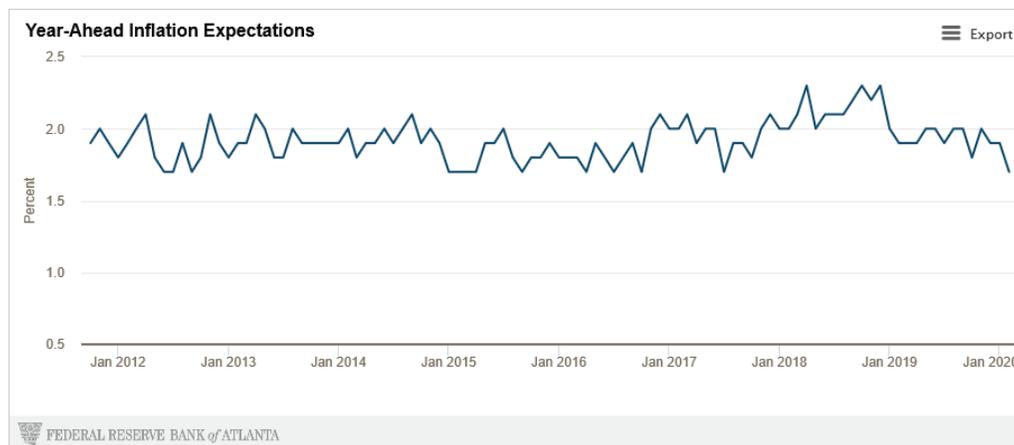
Source [link](#).

Atlanta FRB - Business Inflation Expectations (02.12.2020)

The BIE was created to measure the year-ahead inflationary sentiments of businesses in the Sixth District. It also helps inform our view of the sources of cost changes and provides insight into the factors driving business’ pricing decisions.

Business Inflation Expectations Decline to 1.7 Percent - February 2020

- Inflation expectations: Firms’ year-ahead inflation expectations declined to 1.7 percent, on average.
- Current economic environment: Sales levels and profit margins compared to “normal times” were virtually unchanged over the month. Year-over-year unit cost growth fell by 1.5 percent, on average.
- Quarterly question: The majority of firms expect labor costs and nonlabor costs to put moderate upward pressure on prices over the next 12 months.
- Special question: Firms indicated whether they provide annual merit increases to their full-time employees and, if so, whether these increases incorporate the rate of inflation or cost-of-living adjustments. If they indicated the rate of inflation or a cost-of-living adjustment was incorporated, firms were asked to provide their current inflation expectation or cost-of-living adjustment. A breakdown of the results is included in the special question section below.



Source [link](#).

Spontaneity and Order: Transparency, Accountability, and Fairness in Bank Supervision - Vice Chair for Supervision Randal K. Quarles (02.11.2020)

It's a great pleasure to be with you today at Yale Law School to deliver this Dean's Lecture.

I first arrived here at the Yale Law School on a sunny September afternoon almost 40 years ago, and I have a very clear memory of the first time I sat in this hall, not long after, to hear a lecture from a worthy public servant come to deliver wisdom to those who thought they might one day follow in his footsteps. It was Gene Rostow, former Dean of the Law School, former Under Secretary of State, then serving as head of the Arms Control and Disarmament Agency in the Reagan Administration. I remember the impression of erudition and experience he conveyed. I remember the sense of tradition, sitting here in these wood-paneled surroundings, being addressed with respect on issues of consequence. There was a sense then, in the early 1980's—which turned out to be correct — that the Cold War could be reaching its climax, and widespread concern among the great and good in the country (not least among them the Yale Law School faculty) that the more aggressive stance of the Reaganites (not least among them Gene Rostow) greatly increased the odds of a miscalculation. And here was the man himself, patiently but boldly discussing the state of the world with a group of first-year law students. I remember that he referred more than once to Don Quixote, and this Brooklyn-born American pronounced it in the British way—Dun Quixit—which I found oddly both affected and endearing at the same time. And I remember absolutely nothing else of what he said. Not a word. Which puts me in a properly humble frame of mind for my own remarks today. You won't remember for very long anything I say here today, but I hope your time at the Law School gives you the same experience of patiently but boldly examining matters of consequence that I found to be the most valuable and lasting legacy of my own time here in New Haven.

The themes and goals of this speech are objectives I will be pursuing over the next year and should resonate for this audience. I trust they will be helpful to you all and foster further discussions about the importance of transparency, accountability, and fairness in regulation generally and also in the increasingly important and increasingly consequential topic of bank supervision.

Source [link](#).

Empowering Community Banks - Governor Michelle W. Bowman (02.10.2020)

Thank you to the American Bankers Association for inviting me to address this year's Conference for Community Bankers. I am delighted to be here with you again. Let me begin by stating that the views I express today are my own, and not necessarily those of the Federal Reserve.

As community bankers, you have worked hard to develop a deep understanding of your local economies, while also keeping perspective on the broader economic picture. There is little I could tell you about your local communities that you do not already know, but I thought I might say a few words on the national economic outlook before turning to my main topic for today.

My colleagues and I on the Federal Open Market Committee had our most recent meeting about two weeks ago, when we decided to keep our target range for the federal funds rate unchanged at 1-1/2 to 1-3/4 percent. This policy setting should help support the economic expansion, which is now in its 11th year. My outlook for the U.S. economy is for continued growth at a moderate pace, with the unemployment rate—which is the lowest it has been in 50 years—remaining low. I also see inflation gradually rising to the Committee's 2 percent objective. So on the whole, the national economic backdrop looks very favorable, which should be broadly supportive of your local economies. And of course, by ensuring that consumers and businesses in your communities have access to financial services, you are key contributors to the health of our national economy.

Let me now turn to my main topic for today, the interaction between innovation and regulation for community banks. As the Federal Reserve Board's first designated governor with experience in community banking, I am committed to maintaining a strong and thriving community bank sector. Small banks are the lifeblood of their communities—and they ensure that consumers and businesses have access to financial services. This capacity to address local needs is fundamental to a strong and stable financial system. To community bankers, customers are much more than their credit score or their annual

income, and small businesses are far more than their most recent revenues. By extending credit and offering specialized products and services that meet the needs of their borrowers, these banks empower communities to thrive.

Source [link](#).

Consumer Credit - G.19 (02.07.2020)

December 2019 - In 2019, consumer credit increased 4-3/4 percent, with revolving and nonrevolving credit increasing 4-1/4 percent and 4-3/4 percent, respectively. Consumer credit increased at a seasonally adjusted annual rate of 5 percent in the fourth quarter and at a rate of 6-1/4 percent in December.

Source [link](#).

The Economic Outlook, Monetary Policy, and the Demand for Reserves - Vice Chair for Supervision Randal K. Quarles (02.06.2020)

I would like to thank the organizers for the opportunity to speak to you today. My plan is to address some topical and important issues, some of which are quite technical but technicalities that I think can have significant consequences.¹ After providing my thoughts on where the economy and monetary policy are now, I will turn to what we can expect from monetary policy in the years to come.

Changes in the economic environment since the financial crisis, including an apparent decline in the equilibrium interest rate, have complicated the conduct of monetary policy as we work to achieve our dual mandate of maximum employment and stable prices. The Federal Open Market Committee (FOMC) is currently undertaking a review of its monetary policy strategy, tools, and communication practices to make sure we are best positioned to confront the challenges ahead. Since the Committee is still actively discussing the review, I have no intention of front-running the results. Instead, I would like to address a separate but not unrelated topic, the interaction of bank supervision and regulation with monetary policy, and how supervision and regulation might work to make monetary policy implementation more effective in the current environment, particularly as it relates to a bank's demand for reserves.²

But first, let me start with a brief take on the current economic outlook. There is much to be encouraged by in the nation's current economic performance even as some notable risks require careful monitoring.

Source [link](#).

The Digitalization of Payments and Currency: Some Issues for Consideration - Governor Lael Brainard (02.05.2020)

I want to thank Darrell Duffie for inviting me to discuss the future of payments.¹ Digitalization is enabling consumers and businesses to transfer value instantaneously, technology platforms to scale up rapidly in payments, and new digital currencies to facilitate these payments. By transforming payments, digitalization has the potential to deliver greater value and convenience at lower cost. But there are risks. Some of the new players are outside the financial system's regulatory guardrails, and their new currencies could pose challenges in areas such as illicit finance, privacy, financial stability, and monetary policy transmission.

Given the stakes, the public sector must engage in order to ensure that the payments infrastructure is safe as well as efficient and fast, assess whether regulatory perimeters need to be redrawn or new approaches are needed in areas such as consumer data and identity authentication, and explore the role of central bank digital currencies in ensuring sovereign currencies stay at the center of each nation's financial system. These issues are complicated and consequential. I will only touch on them today in the spirit of sketching out an agenda for the public sector along with the private sector and research community.

Source [link](#).

Chicago FRB - Bringing It Home: The 14th Annual Community Bankers Symposium (02.03.2020)

The 14th annual Community Bankers Symposium, cosponsored by the Federal Reserve Bank of Chicago, the Office of the Comptroller of the Currency (OCC), and the Federal Deposit Insurance Corporation (FDIC), was held at the Federal Reserve Bank of Chicago on November 22, 2019. During a full day of speeches and panels, community bank executives, financial industry practitioners, and regulatory agency professionals who work in the Seventh Federal Reserve District explored the current landscape of community banking. This article provides an overview of the event's key presentations and discussions.

[The conference agenda is available online.](#)

In his welcoming remarks, Ric Brunskill, vice president, Federal Reserve Bank of Chicago, addressed the symposium's theme, Bringing It Home, and focused on what it means to be a community bank in the age of fintech and increasing competition from nonbank entities. He noted that community banks are the foundation of many communities, providing loans and meeting the needs of the local (or home) market.

Source [link](#).

Atlanta FRB - Bank Compensation and Regulation (01.31.2020)

For many people, the beginning of the year is an opportunity to set new goals. For many in the banking industry, it represents the time when they learn their incentive compensation for their contributions over the previous year. The media often focuses on the magnitude of the bonuses, with industry participants sometimes expressing concern that the bonuses are not large enough and editorial pages many times denouncing them as far too large.¹ However, the media frequently do not address an important topic: how individual bankers' compensation is determined.

Academics and regulators often focus more on the question of "How are bonuses determined?" than "How big are bankers' bonuses?" because the process for determining bonuses arguably has a substantial influence over how much risk banks take. Indeed, a survey of large banks by the Institute for International Finance (2009) found that almost all of the 37 banks in its sample agreed that "compensation structures were one of the factors underlying the current (2007–09) crisis." From an academic perspective, one important issue is whether the banks were correct that compensation practices contributed to the crisis, and, if so, which practices. From a regulatory perspective, an important issue is whether the postcrisis adoption of regulatory rules on compensation is likely to make the banking system safer.

This post discusses some of the highlights of my 2019 paper on bank incentive compensation, "Is Stricter Regulation of Incentive Compensation the Missing Piece?" The reference to the "missing piece" is in recognition that other attempts to reduce the risk of a banking crisis have made clear progress, but these attempts have yet to overcome some difficult barriers.² The paper asks whether incentive compensation regulation is the missing piece needed to reduce the risk of a future crisis.

Postcrisis changes in regulation

Before addressing the question of what more could be done with regulation, consider what the regulators have done since the crisis. Bank compensation was largely unregulated prior to the crisis. U.S. regulators could (and likely did) act in some cases where they observed extraordinarily poor compensation design under their general power to stop unsafe and unsound practices at individual banks. However, the United States did not have regulations focused on compensation practices, nor did the international community agree on standards. Moreover, a Federal Reserve Board of Governors study states that a survey immediately after the crisis found "no firm had a well-developed strategy to use risk adjustments and many had no effective risk adjustments."

Immediately after the crisis, the G-20 leaders issued a statement calling for "compensation practices to support financial stability." The Financial Stability Forum had already taken steps in this direction by issuing the [FSF Principles for Sound Compensation](#) Practices in 2009. The forum's successor, the Financial Stability Board, followed this up later in 2009 with [FSB Principles for Sound Compensation Practices: Implementation Standards](#). These documents provided a set of prin-

ciples for both the process and substance of sound compensation practices. The substantive requirements were based on the principle that incentive compensation should take into consideration not only the earnings generated by the employee but also the full range of risks taken by that employee. Importantly, the standards also extend the requirements to all bank “employees whose actions have a material impact on the risk exposure of the firm.” This includes employees who are not part of the senior management group but who generate material risk exposures, such as traders in security units.

The U.S. federal bank regulatory agencies issued guidance on incentive compensation to implement the guidance in the principles and standards in June 2010 ([Federal Reserve press release](#)). Congress then addressed compensation policies in Section 956 of the [Dodd-Frank Wall Street Reform and Consumer Protection Act of 2010](#). Section 956 of that act mandates that the federal financial regulatory agencies write a regulation or guidance on incentive compensation practices that encourage excessive risk taking in financial firms more generally. This broader group of federal regulators—which includes several nonbank regulators such as the Commodities Futures Trading Commission, the Federal Housing Finance Agency, and the Securities and Exchange Commission—has not yet reached agreement on the language of a regulation implementing Section 956.

The Financial Stability Board has subsequently made a series of annual progress reports, which finds the principles and standards have been widely adopted by major countries and implemented by their banks, including in the United States. Additionally, some jurisdictions have gone beyond the principles and standards. Most notably, the European Union has imposed significant limits on the proportion of total compensation accounted for by variable compensation.

Source [link](#).

Comment: This speech provides helpful insights into incentive compensation principles. Review your program for compliance.

Do Minorities Pay More for Mortgages? (01.31.2020)

Abstract: We test for racial discrimination in the prices charged by mortgage lenders. We construct a unique dataset where we observe all three dimensions of a mortgage’s price: the interest rate, discount points, and fees. While we find statistically significant gaps by race and ethnicity in interest rates, these gaps are offset by differences in discount points. We trace out point-rate schedules and show that minorities and whites face identical schedules, but sort to different locations on the schedule. Such sorting may reflect systematic differences in liquidity or preferences. Finally, we find no differences in total fees by race or ethnicity.

DOI: <https://doi.org/10.17016/FEDS.2020.007>

PDF: [Full Paper](#).

Source [link](#).

Selected federal rules – proposed

Proposed rules are included only when community banks may want to comment. Date posted may not be the same as the Federal Register Date.

PROPOSED DATE

SUMMARY OF PROPOSED RULE

- 01.09.2020 [Community Reinvestment Act Regulations](#) - Office of the Comptroller of the Currency (OCC) and the Federal Deposit Insurance Corporation (FDIC) propose regulations that could encourage banks to provide billions more each year in Community Reinvestment Act-qualified lending, investment, and services by modernizing the Community Reinvestment Act (CRA) regulations to better achieve the law's underlying statutory purpose of encouraging banks to serve their communities by making the regulatory framework more objective, transparent, consistent, and easy to understand. To accomplish these goals, this proposed rule would strengthen the CRA regulations by clarifying which activities qualify for CRA credit, updating where activities count for CRA credit, creating a more transparent and objective method for measuring CRA performance, and providing for more transparent, consistent, and timely CRA-related data collection, recordkeeping, and reporting. **Comments must be received on or before April 8, 2020.**
- 02.10.2020 [Request for Comments on Unsafe and Unsound Banking Practices: Brokered Deposit Restrictions](#) - The FDIC is inviting comment on proposed revisions to its regulations relating to the brokered deposits restrictions that apply to less than well capitalized insured depository institutions. The proposed rule would create a new framework for analyzing certain provisions of the "deposit broker" definition, including "facilitating" and "primary purpose." The proposed rule would also establish an application and reporting process with respect to the primary purpose exception. The application process would be available to insured depository institutions and third parties that wish to utilize the exception. **Comments must be received by the FDIC no later than April 10, 2020.**

Selected federal rules – upcoming effective dates

Not all final rules are included. Only rules affecting community banks are reported, but we make no guarantees that these are all the final rules your bank needs to know.

EFFECTIVE DATE:

SUMMARY OF FINAL RULE:

- 09.03.2019 [Availability of Funds and Collection of Checks \(Regulation CC\)](#) - The Board and the Bureau (Agencies) are amending Regulation CC, which implements the Expedited Funds Availability Act (EFA Act), to implement a statutory requirement in the EFA Act to adjust the dollar amounts under the EFA Act for inflation. The Agencies are also amending Regulation CC to incorporate the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) amendments to the EFA Act, which include extending coverage to American Samoa, the Commonwealth of the Northern Mariana Islands, and Guam, and making certain other technical amendments. This rule is effective September 3, 2019, except for the amendments to 12 CFR 229.1, 229.10, 229.11, 229.12(d), 229.21, and appendix E to part 229, which are effective July 1, 2020.
- 10.09.2019 [Real Estate Appraisals](#) - The OCC, Board, and FDIC (collectively, the agencies) are adopting a final rule to amend the agencies' regulations requiring appraisals of real estate for certain transactions. The final rule increases the threshold level at or below which appraisals are not required for residential real estate transactions from \$250,000 to \$400,000. The final rule defines a residential real estate transaction as a real estate-related financial transaction that is secured by a single 1-to-4 family residential property. For residential real estate transactions exempted from the appraisal requirement as a result of the revised threshold, regulated institutions must obtain an evaluation of the real property collateral that is consistent with safe and sound banking practices. The final rule makes a conforming change to add to the list of exempt transactions those transactions secured by residential property in rural areas that have been exempted from the agencies' appraisal requirement pursuant to the Economic Growth, Regulatory Relief, and Consumer Protection Act. The final rule requires evaluations for these exempt transactions. The final rule also amends the agencies' appraisal regulations to require regulated institutions to subject appraisals for federally related transactions to appropriate review for compliance with the Uniform Standards of Professional Appraisal Practice. DATES: This final rule is effective on October 9, 2019, except for the amendments in instructions 4, 5, 9, 10, 14, and 15, which are effective on January 1, 2020.
- 01.01.2020 [Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations](#) - The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the agencies) are adopting a final rule that provides for a simple measure of capital adequacy for certain community banking organizations, consistent with section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (final rule). Under the final rule, depository institutions and depository institution holding companies that have less than \$10 billion in total consolidated assets and meet other qualifying criteria, including a leverage ratio (equal to tier1 capital divided by average total consolidated assets) of greater than 9 percent, will be eligible to opt into the community bank leverage ratio framework (qualifying community banking organizations). Qualifying community banking organizations that elect to use the community bank leverage ratio framework and that maintain a leverage ratio of greater than 9 percent will be considered to have satisfied the generally applicable risk based and leverage capital requirements in the agencies' capital rules (generally

applicable rule) and, if applicable, will be considered to have met the well capitalized ratio requirements for purposes of section 38 of the Federal Deposit Insurance Act. The final rule includes a two-quarter grace period during which a qualifying community banking organization that temporarily fails to meet any of the qualifying criteria, including the greater than 9 percent leverage ratio requirement, generally would still be deemed well capitalized so long as the banking organization maintains a leverage ratio greater than 8 percent. At the end of the grace period, the banking organization must meet all qualifying criteria to remain in the community bank leverage ratio framework or otherwise must comply with and report under the generally applicable rule. Similarly, a banking organization that fails to maintain a leverage ratio greater than 8 percent would not be permitted to use the grace period and must comply with the capital rule's generally applicable requirements and file the appropriate regulatory reports. DATES: The final rule is effective on January 1, 2020.

- 01.01.2020 [U.S. Department of Labor Final Overtime Rule](#) - The Department of Labor is updating and revising the regulations issued under the Fair Labor Standards Act implementing the exemptions from minimum wage and overtime pay requirements for executive, administrative, professional, outside sales, and computer employees. DATES: This final rule is effective on January 1, 2020.
- 01.01.2020 [Home Mortgage Disclosure \(Regulation C\) 2019](#) - The Bureau of Consumer Financial Protection (Bureau) is amending Regulation C to adjust the threshold for reporting data about open-end lines of credit by extending to January 1, 2022, the current temporary threshold of 500 open-end lines of credit. The Bureau is also incorporating into Regulation C the interpretations and procedures from the interpretive and procedural rule that the Bureau issued on August 31, 2018, and implementing further section 104(a) of the Economic Growth, Regulatory Relief, and Consumer Protection Act. DATES: This final rule is effective on January 1, 2020, except that the amendments to § 1003.2 in amendatory instruction 6, the amendments to § 1003.3 in amendatory instruction 7, and the amendments to supplement I to part 1003 in amendatory instruction 8 are effective on January 1, 2022.
- 01.01.2020 [Revisions to Prohibitions and Restrictions on Proprietary Trading and Certain Interests in, and Relationships With, Hedge Funds and Private Equity Funds](#) - The OCC, Board, FDIC, SEC, and CFTC are adopting amendments to the regulations implementing section 13 of the Bank Holding Company Act. Section 13 contains certain restrictions on the ability of a banking entity and nonbank financial company supervised by the Board to engage in proprietary trading and have certain interests in, or relationships with, a hedge fund or private equity fund. These final amendments are intended to provide banking entities with clarity about what activities are prohibited and to improve supervision and implementation of section 13. Effective Date: The effective date for this release is January 1, 2020. Compliance Date: Banking entities must comply with the final amendments by January 1, 2021. The 2013 rule will remain in effect until the compliance date, and a banking entity must continue to comply with the 2013 rule. Alternatively, a banking entity may voluntarily comply, in whole or in part, with the amendments adopted in this release prior to the compliance date, subject to the agencies' completion of necessary technological changes.
- 01.01.2020 [Regulatory Capital Rule: Capital Simplification for Qualifying Community Banking Organizations](#) - The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the agencies) are adopting a final rule that provides for a simple measure of capital adequacy for certain community banking organizations, consistent with section 201 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (final rule). Under the final rule, depository institutions and depository institution holding companies that have less than \$10 billion in total consolidated assets and meet other qualifying criteria, including a leverage ratio (equal to tier 1 capital divided by average total consolidated assets) of greater than 9 percent, will be eligible to opt into the community bank leverage ratio framework (qualifying community banking organizations). Qualifying community banking organizations that elect to use the community bank leverage ratio framework and that maintain a leverage ratio of greater than 9 percent will be considered to have satisfied the generally applicable risk-based and leverage capital requirements in the agencies' capital rules (generally applicable rule) and, if applicable, will be considered to have met the well-capitalized ratio requirements for purposes of section 38 of the Federal Deposit Insurance Act. The final rule includes a two-quarter grace period during which a qualifying community banking organization that temporarily fails to meet any of the qualifying criteria, including the greater than 9 percent leverage ratio requirement, generally would still be deemed well-capitalized so long as the banking organization maintains a leverage ratio greater than 8 percent. At the end of the grace period, the banking organization must meet all qualifying criteria to remain in the community bank leverage ratio framework or otherwise must comply with and report under the generally applicable rule. Similarly, a banking organization that fails to maintain a leverage ratio greater than 8 percent would not be permitted to use the grace period and must comply with the capital rule's generally applicable requirements and file the appropriate regulatory reports. This rule is effective on January 01, 2020.
- 04.01.2020 [Regulatory Capital Treatment for High Volatility Commercial Real Estate \(HVCRE\) Exposures](#) - The Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation (collectively, the agencies) are adopting a final rule to revise the definition of "high volatility commercial real estate (HVCRE) exposure" in the regulatory capital rule. This final rule conforms this definition to the statutory definition of "high volatility commercial real estate acquisition, development, or construction (HVCRE ADC) loan," in accordance with section 214 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA). The final rule also clarifies the capital treatment for loans that finance the development of land under the revised HVCRE exposure definition. DATES: The final rule is effective on April 1, 2020.

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