Community Bankers of Michigan Regulatory Dispatch

July 10, 2024

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

CFPB Extends Compliance Dates for Small Business Lending Rule

The Consumer Financial Protection Bureau (CFPB) issued an interim final rule to extend compliance deadlines for the small business lending rule. After the CFPB issued the small business lending rule on March 30, 2023, a federal court in Texas stayed the rule pending the Supreme Court's decision in *CFPB v. CFSA*. The Texas court also required the CFPB to extend the rule's compliance deadlines to compensate for the period stayed. The interim final rule follows the recent Supreme Court decision in *CFPB v. CFSA.*

The interim final rule extends compliance dates by 290 days, which is the time that has elapsed between the Texas court's first issuance of a stay last year and the Supreme Court's decision in *CFPB v. CFSA* last month. Lenders with the highest volume of small business loans must begin collecting data by July 18, 2025; moderate volume lenders by January 16, 2026; and the smallest volume lenders by October 18, 2026. The deadline for reporting small business lending data to the CFPB remains June 1 following the calendar year for which data is collected. Thus, high volume lenders will first submit data by June 1, 2026, while moderate and low volume lenders will first submit data by June 1, 2027. Under the interim final rule, lenders may continue using their small business originations from 2022 and 2023 to determine their initial compliance date, or instead use their originations from 2023 and 2024.

Lenders may choose to start collecting data earlier. The rule permits lenders to collect demographic data up to one year before their compliance date to test their procedures and systems. The CFPB has also updated its grace period to reflect the revised dates. The CFPB does not intend to assess penalties for reporting errors for the first 12 months of collection, and it intends to conduct examinations only to assist lenders in diagnosing compliance weaknesses, so long as lenders engage in good faith compliance efforts.

Resources to help lenders implement the small business lending rule are located on the Small Business Lending Database web page. The CFPB's small business lending data submission platform will be available for open beta testing in August. Interested beta testing participants and others who wish to receive updates related to rule more generally should sign up for updates on the Small Business Lending Database page and adding their email address in the email sign up box.

[Read the interim final rule](#).

Comment: The end of Chevron Deference does not mean the end of 1071. The data points are the issue and even the expanded data points seemingly would survive. The Dodd-Frank Act specifically requires the collection of 8 'data points' with the last being '(H) any additional data that the Bureau determines would aid in fulfilling the purposes of this section.' No ambiguity there.

Items of Interest

Bank Management

	FRB Moving Toward Better Balance and Implications for Monetary Policy, Governor Lisa D. Cook (06/25/2024) – *I think now is a good time to assess how the economy has evolved after rates have held steady at a restrictive level for nearly a year. I will provide a progress report on disinflation, give you my outlook on the economy, and share my views on how to ensure that monetary policy brings inflation fully back to 2 percent over time while being attentive to the risk of a slowing labor market. I will conclude my remarks with a few words about my role as chair of the Board's Financial Stability Committee.* ***Inflation*** *My forecast is that three- and six-month inflation rates will continue to move lower on a bumpy path, as consumers' resistance to price increases is reflected in the inflation data. I expect 12-month inflation will roughly move sideways for the rest of this year, with monthly data likely similar to the favorable readings during the second half of last year. Beyond that, I see inflation slowing more sharply next year, with housing-services inflation declining to reflect the past slowing in rents on new leases, core goods inflation remaining slightly negative, and inflation in core services excluding housing easing over time.* ***Labor Market*** *Signs of better balance in the labor market have come into focus. For example, the ratio of job vacancies to unemployment has fallen from a high of 2.0 in mid-2022 to 1.2 in April, in line with its pre-pandemic level. Workers are also less likely to leave their current jobs in search of new ones. The quits rate has fallen from 3.0 percent in April 2022 to 2.2 percent this April and is now below its 2019 average. This decline suggests a normalization following a period of high churn. Wage growth is outpacing inflation but is also moderating. Data from the Federal Reserve Bank of Atlanta show that the wage-growth differential between job changers and stayers has narrowed. Wage growth reflected in postings from online job boards, such as Indeed, has returned to pre-pandemic levels. These measures tend to adjust quickly to changes in labor market conditions.* ***Monetary Policy*** *Considering the balance of risks related to these scenarios, I believe that our current policy is well positioned to respond as needed to any changes in the economic outlook. With significant progress on inflation and the labor market cooling gradually, at some point it will be appropriate to reduce the level of policy restriction to maintain a healthy balance in the economy. The timing of any such adjustment will depend on how economic data evolve and what they imply for the economic outlook and balance of risks.*
	FRB Opening Remarks by Governor Bowman at the Midwest Cyber Workshop (07/25/2024) – *Ransomware attacks continue to target individuals, businesses, and governments across the country and often result in significant financial and operational harm. Combating ransomware requires that an organization make investments in people, processes, and technology. Often, these attacks are successful*

because well-intentioned staff have their guard down, or they are not effectively trained to identify and respond to a potential incident.

Employees can be your greatest strength, but also your weakest link when it comes to protecting digital assets. That's why it is critical that cyberprograms are built upon a solid foundation that includes training staff to quickly respond to suspicious activity. This reinforces the importance of a skeptical approach in helping to safeguard information. Today and tomorrow, Federal Reserve staff, law enforcement, and industry stakeholders will share their perspectives on ransomware incidents, including restoration of key payments-related functions, cyberinsurance, payments-related risks, and financial considerations during an incident.

Finally, a cybersecurity program would not be complete without a comprehensive testing and exercise plan. By incorporating regular testing, a bank can identify strengths and weaknesses in their current strategies. They can then leverage this information to enhance resiliency, resulting in a higher level of preparedness when an incident occurs. Tabletop exercises like the one facilitated tomorrow with IBM are an excellent way to test a cyberdefense strategy against multiple scenarios, including those involving a third party and payment systems.

In closing, outreach events like this workshop, the February 2024 Ask the Fed® session with the Cybersecurity and Infrastructure Security Agency, and our recent virtual "office hours" on the 2023 third-party risk management guidance enable us to connect and share resources. These opportunities help us to better support industry management of cybersecurity and other operational risks.

Comment: Cybersecurity has been identified as the top internal risk for community banks. 92% of bankers cited it as either "extremely important" or "very important." IBM reports that the global average cost of a data breach in 2023 was $4.45 million, a 15% increase over 3 years.

OCC Registration Open for OCC Summer Bank Director Workshops (06/24/2024) – The Office of the Comptroller of the Currency (OCC) is accepting registrations for its in-person workshops for board directors and senior management of national community banks and federal savings associations.

The OCC examiner-led workshops provide practical training and guidance to directors and senior management of national community banks and federal savings associations to support the safe and sound operation of community-based financial institutions.
The date, title and location of upcoming workshops are:

Date	Workshop Name	City, State
July 10, 2024	Credit Risk	Cincinnati, OH
July 30-31, 2024	Building Blocks	St. Louis, MO
August 13, 2024	Credit Risk	Milwaukee, WI
August 14, 2024	Compliance Risk	Milwaukee, WI

Workshops are limited to 35 participants. Attendees will receive course materials, supervisory publications, and lunch.

To learn more about the workshops and register, visit the OCC website. For assistance with questions about the workshops, contact the OCC Bank Director Workshop Team at (202) 649-6490 or BankDirectorWorkshop@occ.treas.gov.

Comment: These are excellent training opportunities for bank directors.

BSA / AML

	No news to report this week.

Deposit / Retail Operations

FTC Unexpected Messages on Social Media About Investing are Almost Always Scams (06/28/2024) – With so many people on social media, it's no surprise that scammers are there, too. A scammer might, for example, send you a message on Facebook, LinkedIn, or WhatsApp offering a chance to invest in cryptocurrency. But there's no investment opportunity — just a scammer trying to take your money.

If you get an unexpected message on social media about an investment opportunity, don't reply. It's a scam. Know this:

- Unexpected messages on social media about investment opportunities almost always lead to scams. Don't reply. Scammers like social media because they can be anonymous or pretend to be someone they're not.

- All investments have risks. Don't believe anyone who says you can earn a lot of money on an investment with little or no risk. Investments always involve risk — there are no guaranteed returns.

- The U.S. Securities and Exchange Commission (SEC) has advice on investing and avoiding fraud. Visit Investor.gov for more.

Comment: You are never done educating and informing your account holders. Find ways to share the link for these kind of alerts from the FTC.

Human Resources

	No news to report this week.

Lending

CFPB and FHFA Release Updated Data from the National Survey of Mortgage Originations for Public Use (07/01/2024) – The Consumer Financial Protection Bureau (CFPB) and the Federal Housing Finance Agency (FHFA) published updated loan-level data for public use collected through the National Survey of Mortgage Originations (NSMO). The data also provide updated mortgage performance and credit information for a nationally representative sample of mortgage borrowers from 2013 to 2021.

Since 2014, FHFA and CFPB have sent quarterly surveys to borrowers who recently obtained mortgages. These surveys gather feedback on borrowers' experiences during the mortgage process, their perceptions of the mortgage market, and their future expectations. The release adds one additional year of new mortgage data through 2021.

"The NSMO provides a unique view of mortgage borrowers, helping illustrate underlying trends that can identify emerging issues in mortgage lending," said Saty Patrabansh, FHFA Associate Director for the Office of Data and Statistics. "The data released today will provide insights into consumer behavior and borrowers' experiences, leading to better analysis of how mortgage processes could be improved for future borrowers."

"This year's survey provides new insights into appraisal satisfaction and willingness to move for borrowers with new mortgages," said Jason Brown, CFPB Assistant Director for Research. "With the release of the public use file, we invite researchers to help us understand the challenges facing consumers and help us to find ways to improve the market for consumers."

The release features data on three new survey questions first asked of mortgage borrowers in 2021.

- When asked about appraisal satisfaction, 70 percent of respondents reported being very satisfied with their property appraisal, 23 percent reported being somewhat satisfied, and 6 percent were not at all satisfied.

- When questioned on their willingness to move from their primary residence, 50 percent of respondents reported being unwilling to move, 20 percent were unsure about moving, 25 percent were willing and able to move, and 5 percent were willing but unable to move.

- When prompted to select from a list of factors important to borrowers choosing a mortgage lender/broker, 8 percent of respondents selected accommodations for people with disabilities as an important factor in their choice.

The NSMO is a component of the National Mortgage Database (NMDB®), the first comprehensive repository of detailed mortgage loan information designed to support policymaking and research efforts and to help regulators better understand emerging mortgage and housing market trends.

The NMDB is designed to fulfill the requirements of the Housing and Economic Recovery Act (HERA) and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). HERA mandated that FHFA conduct a monthly mortgage survey of all residential mortgages, including those not eligible for purchase by Fannie Mae and Freddie Mac. The Dodd-Frank Act mandated that CFPB monitor the primary mortgage market, in part through the use of the survey data.

Access the NSMO Public Use File

Comment: Interesting that 96% of mortgage borrowers were mostly or somewhat satisfied with their appraisals. It seems the agencies will push ahead with their 'reconsideration of value' guidelines this fall after the HUD and the GSE's pushed forward with their own reconsideration of value requirements effective July 1, 2024.

CFPB Exams Find Loan Servicing Failures, Illegal Debt Collection Practices, and Issues with Medical Payment Products (07/02/2024) – WASHINGTON, D.C. — The Consumer Financial Protection Bureau (CFPB) published an edition of Supervisory Highlights sharing key findings from recent examinations of auto and student loan servicing companies, debt collectors, and other financial services providers. The report also highlights consumer complaints about medical payment products and identifies concerns with providers preventing access to deposit and prepaid account funds.

"Loan servicers and debt collectors harm borrowers when they fail to provide required information, create barriers to customer assistance, or harass people about their debts," said CFPB Director Rohit Chopra. "The CFPB is working to ensure servicers, debt collectors, and other financial service providers follow the law to protect consumers."

Failures in student and auto loan servicing

CFPB examiners found multiple instances of unfair, deceptive, or abusive acts or practices at companies servicing auto loan and student loans, including:

- Auto loan servicers mishandled consumers' final loan payments: CFPB examiners found that servicers did not provide adequate notification that borrowers were required to make their final payments manually, despite the borrowers being enrolled in autopay. The servicers then illegally charged the borrowers late fees for failing to make the final payment on time.

- Student loan servicers created excessive barriers to assistance, provided inaccurate information about benefit forms, and failed to notify consumers about funds transfers: Examiners found certain servicers had excessive phone hold times, their call centers were significantly understaffed, they had problems with their interactive voice response systems, and some consumers were prevented from accessing online account management portals. Additionally, servicers provided inaccurate information about the forms borrowers were required to submit to qualify for loan programs with certain benefits such as forbearance. They also failed to follow requirements about notifying consumers of preauthorized electronic funds transfers that were larger than prior transfers under the same authorization.

Deception and harassment by debt collectors

The CFPB's recent examinations of debt collectors identified violations of the Fair Debt Collection Practices Act and other violations of consumer protection law, including:

- Debt collectors violated disclosure requirements and misled borrowers: Examiners found that debt collectors, including student loan debt collectors, did not provide validation notices within five days of their initial communication with borrowers, as required. Some student loan debt collectors concealed their true company names in communications, misleading borrowers about their identity.

- Debt collectors harassed borrowers and communicated with them at inconvenient or unusual times or places: Examiners uncovered instances of collectors using aggressive or verbally abusive language, including to consumers unable to pay due to a recent hospitalization. In other cases, debt collectors communicated with consumers at times and places known by the collectors to be inconvenient or unusual; made over 100 calls to consumers despite being asked to stop; and failed to cease contacting consumers by a certain form of communication, such as a text message or specific telephone number, despite being asked to stop by consumers.

Comment: While not targeting banks specifically, there are always lessons to be learned about the CFPB focus. For example, the report points out frustrations with 'interactive voice response systems.' If your bank has an IVR, are you collecting complaints about the system?

CFPB Working to Reinforce the Foundation of a Fair, Nondiscriminatory and Competitive Mortgage Market (06/28/2024) – The Home Mortgage Disclosure Act (HMDA) requires mortgage lenders to report data about the loans and applications they receive and the loans they originate. HMDA can be an effective, quantitative tool for uncovering discrimination, but some lenders fail to report HMDA data, or even intentionally report inaccurate data, despite their obligations under federal law.

We have stepped up efforts to address HMDA compliance comprehensively, including using our enforcement and supervision tools. We will continue to focus on this issue in supervisory examinations of mortgage companies, and we will take action where we do find non-compliance. For example,

HMDA requires lenders to collect accurate demographic information

	HMDA and its implementing regulation, Regulation C, generally require mortgage lenders to collect and report applicants' demographic information, among other data points. Most applicants provide this data voluntarily. However, if an applicant declines to do so during an in-person application, the regulation requires the lender to attempt to collect this information through visual observation or by looking at the applicant's surname. For applications not taken in person - such as those made online, by mail, or over the phone - this visual observation requirement doesn't apply. In these cases, if the applicant doesn't provide their demographic information, the lender reports that the "information was not provided by applicant in mail, internet, or telephone application." A lender's failure to follow these requirements to collect, record and report demographic information constitutes a violation of HMDA and Regulation C. Outlier institutions report demographic information at abnormally low rates Most applicants provide demographic data voluntarily, or mortgage lenders are otherwise able to report demographic information based on visual observation or the applicant's surname. Each year, half of institutions include demographic information for 94.3 percent or more of their HMDA records. Three-quarters of lenders reported included demographic information for 88 percent or more of their HMDA records. However, a small number of mortgage lenders fail to report the required HMDA demographic information much more often than others. The worst 10 percent of lenders failed to report demographic information 4.4 times more often, on average, than a lender at the median. High levels of nonreported demographic information could be caused by intentional misreporting, ineffective policies and procedures at the institution level, a lack of monitoring and controls pertaining to loan officer practices, or application interfaces that discourage the collection of demographic information. ***Comment: The CFPB and prudential regulators use HMDA data and peer comparative analytics to identify banks that will likely be subject to redlining exams. Do you know what your bank's data says about your lending activities?***
	FFIEC Median Family Income Report Release (06/25/2024) – The FFIEC released an updated 2024 FFIEC Median Family Income Report. The report now includes the FFIEC Estimated Median Family Income, which incorporates the boundary changes from OMB Bulletin 23-01.

Technology / Security

	CISA Juniper Networks Releases Security Bulletin for Junos OS: SRX Series (07/02/2024) – Juniper Networks released a security bulletin to address a vulnerability in Junos OS: SRX Series. A cyber threat actor could exploit this vulnerability to cause a denial-of-service condition. Users and administrators are encouraged to review the following and apply the necessary updates: • JSA83195 Juniper Security Bulletin
	CISA Progress Software Releases Security Bulletin for MOVEit Transfer (06/28/2024) – Progress Software released a security bulletin to address a vulnerability in MOVEit Transfer. A cyber threat actor could exploit this vulnerability to take control of an affected system. Users and administrators are encouraged to review the following bulletin and apply the necessary updates:

	• MOVEit Transfer Critical Security Alert Bulletin – June 2024 – (CVE-2024-5806)

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.

06.11.2024 CFPB Prohibition on Creditors and Consumer Reporting Agencies Concerning Medical Information (Regulation V) Summary: The Consumer Financial Protection Bureau (CFPB) is seeking public comment on a proposed rule amending Regulation V, which implements the Fair Credit Reporting Act (FCRA), concerning medical information. The CFPB is proposing to remove a regulatory exception in Regulation V from the limitation in the FCRA on creditors obtaining or using information on medical debts for credit eligibility determinations. The proposed rule would also provide that a consumer reporting agency generally may not furnish to a creditor a consumer report containing information on medical debt that the creditor is prohibited from using. **DATES: Comments must be received on or before August 12, 2024.**