Community Bankers of Michigan Regulatory Dispatch

June 5, 2024

Timely news and resources community bankers can use

to better stay on top of a rapidly changing world.

FDIC-Insured Institutions Reported Net Income of $64.2 Billion

- Net Income Increased from the Prior Quarter, Driven by Lower Noninterest Expense, Provision Expenses, and Higher Noninterest Income
- Community Bank Net Income Increased Quarter Over Quarter
- The Net Interest Margin Fell for the Second Consecutive Quarter
- Asset Quality Metrics Remained Generally Favorable with the Exception of Material Deterioration in Credit Card and Commercial Real Estate Portfolios
- Loan Balances Declined Modestly from the Prior Quarter, but Increased from a Year Ago
- Domestic Deposits Increased for the Second Straight Quarter
- The Deposit Insurance Fund Reserve Ratio Increased Two Basis Points to 1.17 Percent

"The banking industry continued to show resilience in the first quarter. Net income rebounded, asset quality metrics remained generally favorable, and the industry's liquidity was stable. However, the banking industry still faces significant downside risks from the continued effects of inflation, volatility in market interest rates, and geopolitical uncertainty. In addition, deterioration in certain loan portfolios, particularly office properties and credit cards, continues to warrant monitoring." — FDIC Chairman Martin J. Gruenberg

Community Bank Net Income Increased Quarter Over Quarter: Quarterly net income for the 4,128 community banks insured by the FDIC was $6.3 billion in the first quarter, an increase of $363.2 million (6.1 percent) from fourth quarter 2023. Lower realized losses on the sale of securities and lower non-interest and provision expenses more than offset lower non-interest and net interest income. The community bank pretax ROA increased six basis points from one quarter ago to 1.13 percent.

Comment: Of note is the fact that net interest margin (NIM) declined ten basis points to 3.17% in the first quarter. NIM declines as funding costs continue to increase while the yield on earning assets declines during the same period. Banks' first quarter NIM is seven basis points below the pre-pandemic average NIM.

Items of Interest

Bank Management

FRB Beige Book (05/29/2024) – National Summary

Overall Economic Activity

National economic activity continued to expand from early April to mid-May; however, conditions varied across industries and Districts. Most Districts reported slight or modest growth, while two noted no change in activity. Retail spending was flat to up slightly, reflecting lower discretionary spending and heightened price sensitivity among consumers. Auto sales were roughly flat, with a few Districts noting that manufacturers were offering incentives to spur sales. Travel and tourism strengthened across much of the country, boosted by increased leisure and business travel, but hospitality contacts were mixed in their outlooks for the summer season. Demand for nonfinancial services rose, and activity in transportation services was mixed, as port and rail activity increased whereas reports of trucking and freight demand varied. Nonprofits and community organizations cited continued solid demand for their services, and manufacturing activity was widely characterized as flat to up, though two Districts cited declines. Tight credit standards and high interest rates continued to constrain lending growth. Housing demand rose modestly, and single-family construction increased, though there were reports of rising rates impacting sales activity. Conditions in the commercial real estate sector softened amid supply concerns, tight credit conditions, and elevated borrowing costs. Energy activity was largely stable, whereas agricultural reports were mixed, as drought conditions eased in some Districts, but farm finances/incomes remained a concern. Overall outlooks grew somewhat more pessimistic amid reports of rising uncertainty and greater downside risks.

Labor Markets

Employment rose at a slight pace overall. Eight Districts reported negligible to modest job gains, and the remaining four Districts reported no changes in employment. A majority of Districts noted better labor availability, though some shortages remained in select industries or areas. Multiple Districts said employee turnover has decreased, and one noted that employers' bargaining power has increased. Hiring plans were mixed—a couple of Districts expect a continuation of modest job gains, while others noted a pullback in hiring expectations amid weaker business demand and reluctance due to the uncertain economic environment. Wage growth remained mostly moderate, though some Districts reported more modest increases. Several Districts reported that wage growth was at pre-pandemic historical averages or was normalizing toward those rates.

Prices

Prices increased at a modest pace over the reporting period. Contacts in most Districts noted consumers pushed back against additional price increases, which led to smaller profit margins as input prices rose on average. Retail contacts reported offering discounts to entice customers. Many Districts observed a continued increase in input costs, particularly insurance, while some noted price declines in certain construction materials. Some Districts observed declines in manufacturing raw material costs. Price growth is expected to continue at a modest pace in the near term.

Comment: This data, coupled with May's Senior Loan Officer Opinion Survey, continue to show that the overall economic outlook and sentiment continues to move – for the most part – in the right direction.

OCC Launches Project REACh 2.0 (05/29/2024) – WASHINGTON—The Office of the Comptroller of the Currency (OCC) announced the launch of REACh 2.0 at its Project REACh Financial Inclusion Summit.

Project REACh, the Roundtable for Economic Access and Change, brings together leaders from the banking industry, national civil rights organizations, business, and technology to identify and reduce barriers that prevent full, equal, and fair participation in the nation's economy.

"Through Project REACh, more than 100,000 credit invisibles now have access to credit and more than half a billion dollars has been invested into minority depository institutions," said Acting Comptroller of the Currency Michael J. Hsu. "As we tackle additional barriers that prevent full, equal, and fair participation in the nation's economy, we've made structural changes to Project REACh so we can sharpen our efforts and leverage new opportunities."

Under REACh 2.0, working groups will replace workstreams and focus on place-based initiatives; underserved and disadvantaged populations; technology; and tools, products, and services. Existing REACh projects will transition to the new working groups.

"This new approach provides more agility to engage in a broader range of initiatives that not only address barriers but accelerate solutions to financial inclusion," Hsu said.

Related Link
Project REACh

CSBS State Regulation and Interagency Engagement (05/29/2024) – CSBS supports state-federal coordination across a range of supervisory and regulatory structures and work streams. Decades of engagement with the federal banking agencies informed CSBS's efforts to ensure that the law creating the CFPB codified coordination with state regulators. For more than a decade, the states have been leaning into that partnership through supervisory efforts, information sharing, and enforcement through a coordinated supervision framework and information sharing agreements.

State financial regulators and the state regulatory perspective also are integrated into regulatory councils and committees. The key interagency bodies and state regulatory participants are:

Financial Stability Oversight Council
A body chaired by the U.S. Treasury Secretary to monitor for risks to the financial system's stability.
- New York State Department of Financial Services Superintendent Adrienne Harris

Federal Financial Institutions Examination Council
A body of federal and state financial regulators charged with setting examination standards. State Liaison Committee representatives are:
- Texas Department of Banking Commissioner Charles G. Cooper, Chair
- Ohio Division of Financial Institutions Superintendent Kevin Allard
- Deputy Superintendent of the New York Department of Financial Services Yolanda Ford
- Montana Division of Banking and Financial Institutions Commissioner Melanie Hall
- Arkansas State Bank Department Bank Commissioner Susannah Marshall

Financial and Banking Information Infrastructure Committee
A group of federal and state regulators charged with improving coordination and communication among financial regulators, promoting public-private partnerships within the financial sector, and enhancing the resiliency of the financial sector.
- Texas Department of Banking Commissioner Charles G. Cooper (CSBS Principal)
- Ohio Division of Financial Institutions Superintendent Kevin Allard (American Council of State Savings Supervisors Principal)

Interagency Supervisory Processes Committee
A committee of senior state, Federal Reserve, and FDIC bank regulators who meet quarterly to discuss coordination and collaboration on supervisory matters and examination tools.

- Indiana Department of Financial Institutions Deputy Director Christopher Dietz
- Georgia Department of Banking and Finance Deputy Commissioner for Supervision Melissa Sneed
- Iowa Division of Banking Bank Bureau Chief Shauna Shields
- West Virginia Division of Financial Institutions Commissioner Dawn Holstein

Related Topics
ANNUAL REPORT

Comment: A big 'Thank You' to Commissioner Cooper for all his efforts and leadership on behalf of the banking industry.

BSA / AML

No news to report this week.

Deposit / Retail Operations

FDIC Summary of Deposits Survey and Filing for June 30, 2024 (05/31/2024) – The Summary of Deposits (SOD) is the annual survey of branch office deposits as of June 30, 2024 for all FDIC-insured institutions, including insured U.S. branches of foreign banks. All institutions with branch offices are required to submit the survey; institutions with only a main office are exempt. All survey responses are required by July 31, 2024. No filing extensions will be granted.

Statement of Applicability to Institutions with Total Assets Under $1 Billion: This Financial Institution Letter (FIL) applies to all FDIC-insured institutions.
Highlights:

- By June 30, 2024, institutions should review their current branch office information using the FDIC's BankFind website and submit changes through FDIC*connect* (FCX). Details on how to use FCX are provided in the SOD reporting instructions. Changes that cannot be submitted through FCX should be included in the SOD survey.
- Beginning July 1, 2024, institutions may submit their SOD survey. All survey responses are required by July 31, 2024. No extensions will be granted for submitting SOD data.
- The description for the Home Banking service level (13) has been expanded to include mobile applications (mobile apps). Refer to Section 7 of the SOD instructions.
- No later than September 30, 2024, SOD survey results will be published on the FDIC's SOD Deposit Market Share website.
- The FDIC's SOD Deposit Market Share website will be discontinued by the end of 2024, and will be replaced by a new and improved SOD application that is available for preview now. Refer to Section 1G of the SOD instructions for more information.
- Institutions must either complete the survey directly in the Central Data Repository (CDR), or use vendor software to prepare and submit their survey responses to the CDR. Software vendors available to assist with the SOD filing are listed under "Filing Procedures" within this FIL.
- Consistent with the prior year, password requirements have been implemented for the CDR. Refer to Section 5C of the SOD instructions.

- Reporting instructions are available on the FDIC's Summary of Deposits website. Refer to Section 5I of the SOD instructions for amending SOD surveys after initial submission.

Joint Agencies Issue Host State Loan-to-Deposit Ratios (05/29/2024) – Federal bank regulatory agencies jointly issued updated host state loan-to-deposit ratios that are used to evaluate compliance with the Riegle-Neal Interstate Banking and Branching Efficiency Act. Each respective host state loan-to-deposit ratio shows the ratio of total loans in a state to total deposits in the state for all banks that have that state as their home state. These ratios replace those issued in May 2023.

By law, a bank is generally prohibited from establishing or acquiring branches outside of its home state primarily for the purpose of acquiring additional deposits. This prohibition seeks to ensure that interstate bank branches will not take deposits from a community without the bank also reasonably helping to meet the credit needs of that community.

The updated ratios, including additional information on how they are used to evaluate compliance with the requirements, are available here.

Section 109 Host State Loan-to-Deposit Ratios (PDF)

CFPB New York v. Citibank, N.A. (05/29/2024) – The Bureau submitted a statement of interest with the United States District Court for the Southern District of New York arguing that the Electronic Fund Transfer Act (EFTA) applies when banks connect the capability to initiate wire transfers to a consumer-facing banking platform.

The brief argues that EFTA's wire transfer exclusion, which applies to transfers made "by means of" a wire service, excludes only bank-to-bank wire transfers from EFTA's consumer protections. When banks connect wire transfer capabilities to consumer-facing online banking platforms, an online-initiated wire transaction meets the definition of an "electronic fund transfer" and only the bank-to-bank wire portion of that transaction is excluded from EFTA and Regulation E coverage. The remaining electronic fund transfer is subject to EFTA and its implementing Regulation E.

Comment: This is clearly contrary to the plain language reading of Regulation E and would constitute a significant change – all without any industry input or accompanying guidance. It is worth noting this is an Amicus Brief and does not constitute a change to Regulation E. It has no force of law. Any change to Regulation E and its interpretations would have to follow the Administrative Procedures Act.

OCC Fictitious Regulatory Notifications: Fictitious Notification Regarding the Release of Funds Supposedly Under the Control of the Office of the Comptroller of the Currency (05/29/2024) – Consumers have reported receiving various forms of fictitious correspondence via email, Google Chat, and the U.S. Postal Service related to up-front fee scams involving fictitious inheritance or beneficiary payouts. The notifications appear to be initiated by senior officials of the Office of the Comptroller of the Currency (OCC) regarding funds purportedly held by the OCC. Scam correspondence may include the names of other governmental agencies who are purportedly involved in the fake transaction.

In all instances, victims are initially contacted regarding funds being held on their behalf by the OCC and are asked to provide the scammers general personal information including name, address, and telephone number.

	Follow-up correspondence from the scammers includes requests for more specific personal information including, but not limited to Social Security number, bank account details, and copies of driver's licenses and passports. Correspondence is generally poorly written with typographical and grammatical errors and may include instructions for the victim to pay thousands of dollars in required fees or taxes for the release of the supposedly held funds. These scams not only involve the theft of victim funds, but also their identities. There are at least four known variations of this scam. Consumers who have provided personal information to a scammer should immediately contact their financial institution to take steps to safeguard their assets. Additionally, consumers should file an identity theft report with the Federal Trade Commission's Identity Theft Division and initiate a recovery plan by following the instructions on the website. Consumers who have been victimized or targeted in an upfront fee scam should file complaints with the following agencies, as appropriate: ▪ U.S. Department of the Treasury, Office of Inspector General (OIG): by telephone at (800) 359-3898 or by visiting the OIG website. ▪ Federal Trade Commission (FTC): by telephone at (877) FTC-HELP or, for filing complaints electronically, via the FTC's website pages of ReportFraud.ftc.gov or IdentityTheft.gov. ▪ National Consumers League (NCL): by telephone at (202) 835-3323 or by visiting the NCL fraud website. ▪ Federal Bureau of Investigation Internet Crime Complaint Center (to report scams that may have originated via the Internet) ▪ If correspondence is received via the U.S. Postal Service, contact the U.S. Postal Inspection Service by telephone at (888) 877-7644; by mail at U.S. Postal Inspection Service, Office of Inspector General, Operations Support Group, 222 S. Riverside Plaza, Suite 1250, Chicago, IL 60606-6100; or via the online complaint form. Additional information concerning this matter that should be brought to the attention of the Office of the Comptroller of the Currency (OCC) may be forwarded to OCCAlertResponses@occ.treas.gov. For additional information regarding other types of financial fraud, please visit the OCC's Fraud Resources page, which can also be found from visiting OCC.gov. ***Comment: Find ways to get this information to all internal staff and out to your customers.***

Human Resources

	No news to report this week.

Lending

	CFPB Launches Inquiry into Junk Fees in Mortgage Closing Costs (05/30/2024) - The Consumer Financial Protection Bureau (CFPB) launched a public inquiry into junk fees that are increasing mortgage closing costs. The CFPB wants to understand why closing costs are increasing, who is benefiting, and how costs for borrowers and lenders could be lowered. According to a CFPB analysis, the closing costs borrowers pay in connection with a mortgage have risen steeply in recent years. From 2021 to 2023, median total loan costs for home mortgages increased by over 36%. The unavoidable fees borrowers must pay at closing can strain household budgets and families' ability to afford a down payment. The fees may also limit the

ability of lenders to offer competitive mortgages because they have to absorb the higher costs or pass them on to borrowers.

"Junk fees and excessive closing costs can drain down payments and push up monthly mortgage costs," said CFPB Director Rohit Chopra. "The CFPB is looking for ways to reduce anticompetitive fees that harm both homebuyers and lenders."

People rely on mortgage loans to buy their homes and to access home equity. When people purchase a home with a mortgage, they pay a number of fees, such as charges for credit reporting and title insurance. Even if disclosed, borrowers are compelled to pay the fees and may have no control over cost. In 2022, median closing costs were $6,000, and these fees can quickly erode home equity and undercut homeownership.

Mortgage lenders also pay a price when it comes to junk fees and excessive closing costs. For example, in recent years the cost of a credit report has risen substantially. Rising costs can prevent lenders from competing for every potential mortgage because these fees drive up the cost of considering an applicant.

Title insurance is another major fee paid at closing. Most commonly, lender's title insurance is paid by the borrower to protect the lender against problems with the property. Consumers typically have limited options to shop around for title insurance.

The CFPB's request for information seeks input from the public, including borrowers and lenders, about how mortgage closing costs may be inflated and constraining the mortgage lending market. Specifically, the CFPB asks for information about:

- **Which fees are subject to competition:** The CFPB is interested in the extent to which consumers or lenders currently apply competitive pressure on third-party closing costs. The CFPB also wants to learn about market barriers that limit competition.
- **How fees are set and who profits from them**: The CFPB wants to learn about who benefits from required services and whether lenders have oversight or leverage over third-party costs that are passed onto consumers.
- **How fees are changing and how they affect consumers:** The CFPB wants information about which costs have increased most in recent years and the reasons for such increases, including the rise in cost for credit reports and credit scores. The CFPB is also interested in data on the impact of closing costs on housing affordability, access to homeownership, or home equity.

The CFPB encourages comments and data from the public and all interested stakeholders. Comments must be received within 60 days of the request for information being published in the Federal Register.

The CFPB administers many laws and regulations related to mortgage lending and real estate settlement, including the Truth in Lending Act, the Fair Credit Reporting Act, and the Real Estate Settlement Procedures Act. The findings from this inquiry will help inform rulemaking, guidance, and other policy initiatives.

Read Request for Information Regarding Fees Imposed in Residential Mortgage Transactions.

Comment: The CFPB has not been shy about flexing its UDAAP authority, even a cursory analysis would find roadblocks with this analysis. For example, how can consumers be said to lack understanding or have an inability to protect their interests when they are being provided enhanced disclosures under more stringent timing requirements pursuant to TRID? Additionally, lenders have no control over the cost of title insurance or credit report fees.

Technology / Security

	No news to report this week.

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 RULES WITH REQUEST FOR PUBLIC COMMENT