CBA Community Bankers Association of Kansas

Regulatory Dispatch

Timely news and resources community bankers can use to better stay on top of a rapidly changing world.

February 27, 2025

Federal Reserve's Consumer Compliance Outlook – 4th Qtr 2024

The Fourth Issue 2024 of *Consumer Compliance Outlook* (*CCO*) is now available on the *CCO* website. This issue includes the following articles and features:

- The Federal Reserve System's Top-Issued Fair Lending MRIAs and MRAs
- Top Federal Reserve System Compliance Violations in 2023 under ECOA
- Top-Cited Federal Reserve System Compliance Violations for the TILA RESPA Integrated Disclosure
- Complex Bank-Fintech Partnerships
- Interagency Statement on Elder Financial Exploitation
- Regulatory Calendar
- Download the complete issue (PDF)

Comment: Of particular interest are the TRID compliance violations. Our Compliance Select banks are also reporting examiner focus on continued flood issues citing inadequate coverage; phantom opt in; Board oversight and change management related to the Compliance Management Systems in general.

CBAK Insights (Ask Anything)

Q: We have a customer that has been acting strange and doing strange things with his DDA accounts and opening multiple business accounts. He comes into the bank for hours at a time, almost daily. We also know he got arrested last weekend for making a false report of an explosive device. Our employees are afraid of him and afraid to confront him about some of his activity within his accounts. Can we close his deposit accounts? Can we close his loans which are CD secured?

A: What does your deposit contract say? Typically, deposit contracts state an account can be closed at any time with or without a reason. If the accounts receive federal benefits, you have to provide the account holder 30 days' notice. CDs are different as you have contracted for a specific period of time. Your option there is to simply not renew those CDs once they mature. And if they also secure loans, you certainly don't want to just close the CD.

As for the loans, you contracted to extend credit to the borrower allowing them to repay the amount borrowed according to the loan contract. You can accelerate the repayment in accordance with the loan contract. Does the loan contract have a demand clause? Does the loan contract spell out what an event of default is? Those are legal questions that should be discussed with your legal counsel before acting.

Having said all that, you also have a duty to protect your employees. Coming into your bank is a privilege and not a right. You should not allow someone to abuse or frighten your employees, and management – not front-line staff - has a responsibility to put an end to that behavior. It might be time to consider telling your customer he is not welcome to come into the bank to hangout and cause trouble.

Finally '…doing strange things…' and getting arrested for something as serious as making false reports about explosive devices should prompt you to explore the need to file SARs.

Bank Management

	FFIEC UBPR Interest Rate Risk Analysis Page Content Changes (02/20/2025) – The Federal Financial Institutions Examination Council's member agencies are making changes to the Uniform Bank Performance Report's Interest Rate Risk Analysis page on or shortly after February 22, 2025. These changes, being led by the Task Force on Surveillance Systems, are part of a previously announced ongoing multiyear review of Uniform Bank Performance Report content.
	FRB Brief Remarks on the Economy and Accountability in Supervision, Applications, and Regulation- Governor Michelle W. Bowman (02/19/2025) – *Diagnostic Accountability* *To maintain strong and appropriate supervisory standards and practices, we need to take a step back and diagnose the bank regulatory system in its entirety: what is working, what is broken, and what needs to be updated. When things go wrong, having an impartial check on subjective judgments can lead to a better diagnosis. Of course, a better diagnosis can produce more efficient and targeted improvements, and better promote accountability. Accountability is critical to maintaining an effective regulatory system, and yet it can be difficult to establish a regulatory culture that includes mechanisms to promote accountability for supervisors and regulators.6* *At every organizational level, from examiners to agency leadership, judgments are made that contribute to the overall effectiveness of the supervisory process. Reserve Bank examiners play a critical role in examining Fed-regulated institutions, both banks and holding companies. The Federal Reserve exercises its supervisory responsibilities by supervisory portfolio, with each portfolio relying on a combination of Board and Reserve Bank staff.7 But this split allocation of responsibility should not diminish the accountability for supervisory decision making. Responsibility for supervisory decisions must be coupled with accountability for these decisions. The misalignment of responsibility and accountability limits our ability to conduct effective supervision.* *This division of responsibility can pose a challenge to accountability. In the aftermath of the bank failures in 2023 and the broader stress to the banking system, the Board and other agencies proposed a variety of regulatory reform measures to remediate and address identified issues, based on internal reviews of the failures and banking stress. While I applaud efforts to hold ourselves accountable, we must ensure that self-reviews are credible, both in the causes they identify and in the reform agenda that they are used to support. An internal review process poses the temptation to avoid responsibility by assigning blame elsewhere, even when the review may be motivated by good intentions and with the outward appearance of impartiality.* *Many of the core problems in the lead-up to the bank failures involved well-known, core banking risks—interest rate risk, liquidity risk, and poor risk management. But if we look at*

	the subsequent reform agenda, we see that the policy emphasis has been on broader regulatory changes rather than addressing supervisory program deficiencies. In my mind, this highlights the need to have a process that challenges the subjective judgments of those that were involved in oversight, not only in performing the diagnostics, but evaluating how identified issues can best be remediated. ***Comment: In our letter urging the Trump administration to name Governor Bowman to serve as the Fed's Vice Chair for Supervision, we applauded her support for a balanced, risk-based approach to supervision and not '…broader regulatory changes rather than addressing supervisory program deficiencies.'***
	Tonkon Torp LLP Governmental Structural Changes to the U.S. Economy Are Underway – What to Expect **–** (02/18/2025) – **Government Spending.** Since 2019, the U.S. Congress has passed, and consecutive presidential administrations have implemented, about $6 trillion in spending programs, starting with the CARES Act in response to the COVID-19 pandemic, the American Rescue Act, the Inflation Reduction Act, and the CHIPS Act. The federal debt as a percentage of GDP was about 75% in 2019. That same year, the federal budget deficit was about 4% of GDP. While CARES provided a safety net for many people and businesses, it increased the federal budget deficit to about 15% of GDP. This was the first economic downturn in U.S. history to see GDP decrease while consumer spending increased. The Trump administration aims to reduce the budget deficit from its current range of 6-7% of GDP to 5%. It is serious about making rapid changes, including by freezing previously-approved spending and reducing future federal spending, to emphasize private sector drivers and reduce government influence on the overall economy. This could be jarring to the economy, causing lower growth, particularly in the short and middle term. An objective measure to watch is interest rates on longer-term U.S. treasuries. Currently, the yield on 10-year treasuries has increased even while the Fed Funds Rate has decreased. This is true of all longer-term U.S. treasuries, showing that the market is skeptical and reluctant to buy "duration" – interpreted to mean that Treasuries buyers don't bet on U.S. interest rates staying at their current rates or decreasing for the long term. U.S. residential mortgage rates correlate with 10-year and 30-year U.S. treasury rates, so continued reluctance to buy duration means residential mortgage rates will stay higher than the administration and consumers would like. **Goal to Reduce Energy Costs.** The Trump Administration wants to quickly reduce energy costs for American consumers. Expect a reversal of any federal policy that has the effect of reducing the availability of fossil fuels or favoring renewables. The price of gasoline for consumers is a substantial component of inflation and is very important to the estimated 65-75 million Americans living in households making less than $50,000 per year. **Regulatory Reduction Across All Industries.** The Trump Administration desires to reduce governmental regulation of all American industries. Their goal is to

	increase productivity across the board. GDP growth equals workforce growth plus productivity growth. With the country's demographics showing a slowing birth-rate (and therefore a diminishing future workforce), the administration desires to increase productivity by reducing regulations. **Immigration.** How far will the Trump administration go with respect to deportations? Given our demographics, the U.S. economy requires incoming immigration for workforce growth. Many undocumented workers work in service industries. Their lower wages have mitigated inflationary pressures in that sector. As many as 50% of construction workers are undocumented, and the percentage of undocumented workers in agricultural sectors exceeds that percentage. As things currently stand, many construction and agricultural jobs are already unfilled – this shortage will likely increase the more widespread deportations are. **Tariffs.** Will the Trump administration use tariffs as a negotiating tool with certain countries, or will they be longer-term (or even permanent) across-the-board taxes? Economists will be closely watching what the administration does with tariffs, in particular with two of our most important trading partners, Canada and Mexico. Many imports from Canada and Mexico are component parts used by U.S. manufacturers to assemble products in the U.S., so increases in costs of those component parts will increase the cost of the products assembled in the U.S. ***Comment: These insights were made by Robert Kaplan, Partner and Vice Chairman of Goldman Sachs, and former President and CEO of the Federal Reserve Bank of Dallas.***

BSA / AML

	FinCEN Extends Beneficial Ownership Information Reporting Deadline by 30 Days; Announces Intention to Revise Reporting Rule (02/18/2025) – Following the February 18, 2025, decision by the U.S. District Court for the Eastern District of Texas in Smith, et al. v. U.S. Department of the Treasury, et al., 6:24-cv-00336, the Financial Crimes Enforcement Network (FinCEN) has announced that beneficial ownership information (BOI) reporting requirements under the Corporate Transparency Act are back in effect, with a new deadline of March 21, 2025 for most companies. FinCEN has also announced that it will assess its options to further modify deadlines, while prioritizing reporting for those entities that pose the most significant national security risks. FinCEN intends to initiate a process this year to revise the BOI reporting rule to reduce burden for lower-risk entities, including many U.S. small businesses. ***Comment: Challenges to the constitutionality of the CTA remain pending before the courts, and further developments in litigation – or further action from FinCEN or Congress – may affect the BOI reporting requirements under the CTA. Reporting under the CTA has no impact – yet – on a banks requirement to collect BOI information under the current Customer Due Diligence rule.***

Deposit / Retail Operations

	FTC Did Someone Use Your SSN to File Taxes? Here's What To Do (02/20/2025) – If you're filing your taxes online this year, watch for signs of tax identity theft, like someone using your Social Security number (SSN) to file and claim a tax refund. One way you'll know is if the IRS rejects your tax return once you file. Learn to protect yourself while filing online and what to do if someone steals your tax refund. If you use tax preparation software like TurboTax, H&R Block, TaxAct, or TaxSlayer, protect your accounts by using two-factor authentication. Requiring two or more credentials to log in makes it harder for scammers to get into your account, even if they get your username and password. And always file early, if you can — before anyone else files using your personal information. But even if you're careful, someone might still use your SSN to steal your refund. Now, if the IRS rejects the tax return you submitted online or through a tax preparer, it could just mean missing or incorrect information. But if the IRS says there's more than one tax return filed in your name or they see income from an employer you know you don't work for, that's identity theft. Don't panic — but do act quickly to communicate with the IRS. Here's how: 1. **Report it to IdentityTheft.gov** using as many details as possible. The site will create an FTC Identity Theft Report, an IRS Identity Theft Affidavit, and a personal recovery plan. 2. **Submit your IRS Identity Theft Affidavit** through IdentityTheft.gov. This tells the IRS to begin investigating your case. Or get the Identity Theft Affidavit (IRS Form 14039) and submit it by mail. 3. **Follow the steps in your personal recovery plan** — like freezing your credit and checking your credit reports — to limit the damage identity theft causes. Share IdentityTheft.gov/Steps with friends and loved ones to help them protect their personal information and stay ahead of identity thieves ***Comment: Find ways to share with your accountholders.***

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.

12.09.2024 **CFPB** Fair Credit Reporting Act (Regulation V); Identity Theft and Coerced Debt SUMMARY: The Consumer Financial Protection Bureau (CFPB) is seeking information in advance of preparing a proposed rule to address concerns related to information furnished to credit bureaus and other consumer reporting agencies concerning coerced debt. More specifically, this advance notice of proposed rulemaking solicits information on amending the definitions of "identity theft" and "identity theft report" in Regulation V, which implements the Fair Credit Reporting Act, as well as other related amendments to Regulation V, to include information stemming from transactions that occurred without the consumer's effective consent. **DATES: Comments must be received by March 7, 2025.**

01.10.2025 **CFPB** Electronic Fund Transfers Through Accounts Established Primarily for Personal, Family, or Household Purposes Using Emerging Payment Mechanisms SUMMARY: In light of interest by electronic fund transfer system market participants to offer new types of products to transfer funds and make purchases through accounts established primarily for personal, family, or household purposes, the Consumer Financial Protection Bureau (CFPB) is proposing this interpretive rule to assist companies, investors, and other market participants evaluating existing statutory and regulatory requirements governing electronic fund transfers (EFTs). **DATES: Comments must be received by March 31, 2025.**

01.10.2025 **CFPB** Request for Information Regarding the Collection, Use, and Monetization of Consumer Payment and Other Personal Financial Data SUMMARY: The Consumer Financial Protection Bureau (CFPB) is seeking comments from the public to better understand how companies that offer or provide consumer financial products or services collect, use, share, and protect consumers' personal financial data, such as data harvested from consumer payments. The submissions in response to this request for information will serve to assist the CFPB and policymakers in further understanding the current state of the business practices at these companies and the concerns of consumers as the CFPB exercises its enforcement, supervision, regulatory, and other authorities. **DATES: Comments must be received on or before April 11, 2025.**

01.13.2025 **CFPB** Prohibited Terms and Conditions in Agreements for Consumer Financial Products or Services (Regulation AA) SUMMARY: The Consumer Financial Protection Bureau (CFPB) is proposing to prohibit certain contractual provisions in agreements for consumer financial products or services. The proposal would prohibit covered persons from including in their contracts any provisions purporting to waive substantive consumer legal rights and protections (or their remedies) granted by State or Federal law. The proposal would also prohibit contract terms that limit free expression, including with threats of account closure, fines, or breach of contract claims, as well as other contract terms. The proposal would also codify certain longstanding prohibitions under the Federal Trade Commission's (FTC) Credit Practices Rule. **DATES: Comments must be received on or before April 1, 2025.**