Regulatory Dispatch

Timely news and resources community bankers can use

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FDIC Webinar for Bank Officers, Employees, and Other Stakeholders on FDIC Official Signs and Advertising, Misrepresentations of Insured Status, and Misuse of FDIC's Name or Logo

In 2024, the FDIC will host four seminars on the final rule governing use of Official Signs and Advertising Statement, Misrepresentations of Insured Status, and Misuse of FDIC's Name or Logo for bank staff, bank officers, and other stakeholders. The first seminar will be held via Microsoft (MS) Teams on May 30, 2024. The dates for the remaining three seminars will be announced at a later date.

The sessions will offer a broad overview of the final rule that amended Part 328 of the FDIC's regulations. The FDIC amended its regulations governing use of the official FDIC sign and advertisement statements to reflect how depositors do business with banks today, including through digital and mobile channels. The rule also clarified the FDIC's regulations on misrepresentations of deposit insurance coverage. The final rule is intended to help consumers understand when they are interacting with an FDIC-insured bank and when their funds are protected by the FDIC's deposit insurance coverage.

The rule became effective on April 1, 2024, and has a compliance date of January 1, 2025. The sessions are ideal for bank employees and other Part 328 stakeholders looking for further information and guidance on the new final rule.

HOST: Federal Deposit Insurance Corporation (FDIC)

WHAT: The FDIC will host four seminars on the final rule governing FDIC Official Signs and Advertising, Misrepresentations of Insured Status, and Misuse of FDIC'S Name or Logo (final rule) for bank officers, staff, and other stakeholders beginning on May 30, 2024.

During the presentation on the final rule, FDIC staff will cover:

- Requirements for all FDIC-insured institutions' use of FDIC official signs. This includes a new FDIC official digital sign for bank websites, apps, and ATMs, as well as updates to the advertising statement.

- Clarifications on the prohibitions against misrepresentations of deposit insurance coverage and misuse of the FDIC's name and logo, which apply to any person, including banks and non-bank entities.

During the seminar, FDIC staff will also discuss some of the questions that have been raised by bankers, trade associations, technology companies, vendors, and others.

AUDIENCE: Bank officers, staff, and other stakeholders.

DATE: Each seminar will last approximately 90 minutes, during which FDIC staff will take your questions via live chat. All seminars will be held from 2:00-3:30pm Eastern Time:

May 30th Seminar (To join the seminar, click on the MS Teams Live Event)

HOW: Each webinar will be hosted via MS Teams

Comment: The final rule addressed - Responsible Advertising: Codified the regulatory focus on advertising that may mislead or confuse consumers, specifically relative to insured versus non-insured products; Digital Service: New digital version of the official FDIC sign (e.g., for ATMs, websites, and mobile apps); Physical Locations: New requirements for use of the official FDIC sign across physical locations (e.g., electronically-staffed kiosks, interactive ATMs with remote teller assistance, teller-less cafés); Clarity of Products: Amended definition for "non-deposit products" and "uninsured financial products" to include crypto-assets, and requirements for applicable signage.

Items of Interest

Bank Management

<table>
<tr><td></td><td>FRB Supervision and Regulation Report (05/10/2024) – The report summarizes banking conditions and the Federal Reserve's supervisory and regulatory activities, in conjunction with semiannual testimony before Congress by the Vice Chair for Supervision.

Comment: The current 'Supervisory Priorities' starts on page 14 and provides helpful insights into the Fed's thinking.</td></tr>
<tr><td></td><td></td></tr>
<tr><td></td><td>CSBS Promoting the Value of Community Banks (05/08/2024) – State supervisors charter and oversee 79% of the nation's banks and have a uniquely local perspective, understanding the financial needs of the families and businesses that make up their communities. They are focused on consumer protection and safety and soundness, but they also work with their institutions to encourage prudent economic growth and to mature the compliance framework for innovative financial products.

CSBS promotes the value of state-chartered banks through a number of initiatives:

• Community Banking Research Conference</td></tr>
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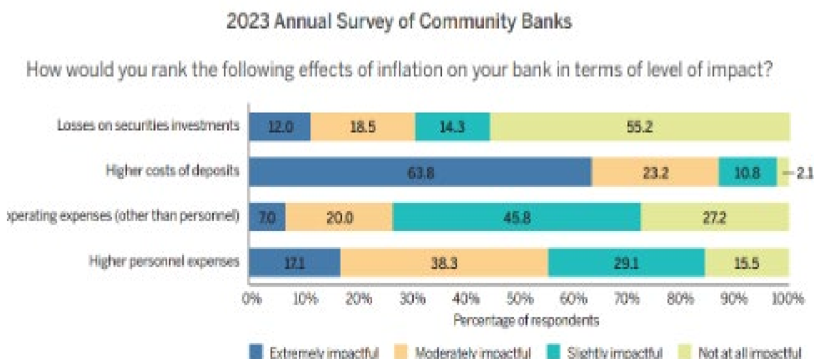
- CSBS Annual Survey of Community Banks



- Community Bank Sentiment Index
- CSBS Student Competitions

FDIC Special Review Committee of the FDIC Board of Directors Releases Independent Third-Party Report (05/07/2024) – The Special Review Committee of the Federal Deposit Insurance Corporation (FDIC) Board of Directors today released the report from the independent third-party review conducted by Cleary Gottlieb.

- Read the Special Review Committee's Press Release
- Read FDIC Chairman Martin J. Gruenberg's Message to Employees

Comment: The 200-plus page report, developed by the law firm Cleary Gottlieb, makes numerous recommendations to improve the FDIC's workplace, which it characterizes as a "good ol' boys club."

BSA / AML

FRB Formal Agreement with First Citizens Bank of Butte (05/07/2024) – BSA/AML Compliance Program 2.

Within 60 days of the effective date of this Agreement, the Bank shall submit a written plan acceptable to the Supervisors to improve the Bank's BSA/AML compliance program. The revised program shall include the following two items:

(a) measures to improve the Bank's internal controls to ensure compliance with the BSA/AML requirements, including but not limited to customer due diligence, suspicious activity monitoring and reporting, and the filing of currency transaction reports; and

	(b) management of the Bank's BSA/AML compliance program by a qualified BSA/AML compliance officer who is provided with adequate resources, staff, training, and independence, who is responsible for implementing and maintaining an effective BSA/AML compliance program that is commensurate with the Bank's size and risk profile. ***Comment: While we don't often cover formal agreements, this one in particular reiterates the need to provide the BSA/AML officer and program with adequate resources and authority.***

Deposit / Retail Operations

	FTC Text Alert Scams (05/08/2024) – When you go through a toll, you know you'll need to pay a fee to use that road or bridge. But scammers are targeting drivers with text messages pretending to be from the tolling agency collecting "overdue toll charges." Here's what to know about this text scam. The scammy text tells you to click a link to pay "overdue toll charges" to avoid late fees. But it's probably not the tolling agency contacting you. It's probably a scammer. Clicking the link can lead to a phishing attack, where the scammer tries to take your personal information (like your driver's license number) — and even steal your identity. And if you pay, not only are you out the money, but the scammer gets your credit card number, too. ***Comment: Interesting twist on fraud for those that travel using toll roads and bridges.***
	CFPB Takes Action Against Chime Financial for Illegally Delaying Consumer Refunds (05/07/2024) – WASHINGTON, D.C. — The Consumer Financial Protection Bureau (CFPB) took action against Chime Financial for failing to give consumers timely refunds when their accounts were closed. Thousands of consumers waited for weeks or even months for balance refunds after closing their accounts - a failure that inflicted significant financial harm on consumers who did not have access to critical funds to help make ends meet. In some cases, consumers had to seek expensive forms of credit to cover bills that were due. The CFPB's order requires Chime to provide at least $1.3 million in redress to consumers it harmed, and pay a $3.25 million penalty into the CFPB's victims relief fund. "Chime's customers had to wait weeks or months for access to their own money and were forced to use alternative funds to cover their essential expenses," said CFPB Director Rohit Chopra. "Fast-growing financial firms must treat their customers fairly and understand that federal law is not a suggestion." Chime Financial is a nonbank company headquartered in San Francisco. The company partners with banks to offer financial products, including checking accounts, savings accounts, and credit cards. Chime has $1.5 billion in annualized revenue. Approximately seven million consumers make $8 billion in transactions using Chime cards each month. It is not publicly owned, and relies, in large part, on investments through venture capital firms.

	Chime is responsible for processing accounts' payments, which it does by contracting with a third-party payment processor. Chime is also responsible for nearly all consumer communications concerning accounts, and sets and applies the policies and procedures for servicing them with the review and approval of the company's partner banks. In most instances, when consumers' checking and savings accounts are closed, Chime automatically refunds remaining balances by check. Until 2021, Chime's policy, reflected in consumer account agreements, was to process and mail refund checks within 14 days of an account's closure. ***Comment: This action piggybacks the various agencies concerns about banks placing holds of funds when they have neither the contractual or legal authority to do so.***
	FDIC CONSUMER NEWS - MAY 2024 EDITION (05/06/2024) – Things to know about small business accounts. Your small business may need a variety of deposit services or products. As a small business owner, you may be juggling the expenses of running the day-to-day operations of your business, the costs of expanding your business, and the responsibilities to protect your employees and your customers with your financial choices. Knowing you have all of that on your mind, here is some helpful information and some things to consider about banking for your business. ***Comment: Helpful information for business account owners.***

Human Resources

	Joint Incentive-Based Compensation Arrangements (05/06/2024) – The FDIC Board of Directors approved a *Notice of Proposed Rulemaking* (NPR) and request for comment entitled *Incentive-Based Compensation Arrangements*, a rule to implement Section 956 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). In this NPR, the FDIC, the Office of Comptroller of the Currency (OCC), the National Credit Union Administration (NCUA), and the Federal Housing Finance Agency (FHFA) (collectively the "Agencies" for purposes of this NPR) are re-proposing the regulatory text previously proposed in June 2016, along with certain alternatives and questions, for public comment.[1] The NPR would provide a consistent set of enforceable standards and help safeguard covered financial institutions from certain types and features of incentive-based compensation arrangements that encourage inappropriate risks by providing excessive compensation or that could lead to material financial loss to the institution. **Statement of Applicability**: This proposed rulemaking does not apply to FDIC-supervised institutions with less than $1 billion in average total consolidated assets. Key Details: • On June 10, 2016, an NPR to implement Section 956 of the Dodd-Frank Act was published in the *Federal Register* (2016 NPR).[2]

- In consideration of the passage of time since the 2016 NPR, as well as additional supervisory experience, changes in industry practices and other developments, the Agencies are issuing this NPR and seeking additional feedback from commenters by re-proposing the 2016 regulatory text and proposing potential alternatives for consideration.

- Comments received on this NPR as well as those previously submitted on the 2016 NPR will further inform efforts to implement Section 956 of the Dodd-Frank Act.

- The NPR uses a tiered approach that would apply provisions to covered financial institutions according to three categories of average total consolidated assets: Level 1 ($250 billion or more), Level 2 ($50 billion to $250 billion), and Level 3 ($1 billion to $50 billion).

- For all covered institutions, the proposed rule would:
    - Prohibit types and features of incentive-based compensation arrangements that encourage inappropriate risks.
    - Require adherence to basic principles for incentive-based compensation arrangements to balance between risk and reward and establish effective risk management governance.
    - Require appropriate board of directors (or committee) oversight, recordkeeping, and disclosures to the appropriate agency.

- For Level 1 and Level 2 institutions, the proposed rule would:
    - Require the following: deferral of awards for senior executive officers (SEOs) and significant risk-takers (SRTs); consideration of forfeiture or downward adjustment of awards; provide for clawback of paid awards; establishment of a board compensation committee; appropriate risk management and control framework; additional recordkeeping requirements for SEOs and SRTs; and policies and procedures to ensure rule compliance.
    - Prohibit or limit: excessive award leveraging; using only relative (peer) performance measures; use of options; volume-driven incentive-based compensation without regard to transaction quality or compliance with sound risk management; and the purchasing of hedging instruments by an institution on behalf of a covered person to offset any decrease in the value of incentive-based compensation.

- Potential Alternatives to Regulatory Provisions:
    - The NPR is also seeking feedback on potential alternatives to the proposal's regulatory provisions including, but not limited to, shortening the compliance date; establishing a two-level structure for covered institutions; simplifying the SRT definition; and requiring performance measures and targets be established before the performance period.
    - Comments on potential alternatives are also being sought on topics such as options; *requiring*, instead of *requiring consideration of*, forfeiture and downward adjustments; clawback; hedging; volume driven incentive-

	based compensation; and risk management and control requirements for Level 1 and Level 2 covered institutions. • Until this proposed rulemaking is published in the *Federal Register*, comments on the proposed rule and alternatives in the preamble can be sent to IncentiveCompProposal2024@fdic.gov and will be posted on the FDIC website at https://www.fdic.gov/regulations/laws/publiccomments/. ***Comment: The four agencies have invited comments on all of these items as well as any matters covered by the 2016 proposed regulations. Since not all six agencies have reproposed the regulations, this new guidance cannot be published in the Federal Register, which means the comment period will remain open until formally published by all six agencies. Until we know what the FRB and SEC positions are, the key question is what exactly are we commenting on?***

Lending

	FRB Consumer Credit G. 19 (05/07/2024) – The Federal Reserve Board announced on March 7, 2024 the following changes to the Consumer Credit (G.19) statistical release: Beginning with the April 2024 G.19 Consumer Credit release, scheduled to be published on June 7, 2024, data for the Finance Companies New Car Loan Terms of Credit series will be produced from Experian's Velocity Risk Report instead of Experian's Autocount Risk Report. The updated source data will affect only data from the first quarter of 2024 forward; previous data will not be affected. The types of measures shown will not change. March 2024 Consumer credit increased at a seasonally adjusted annual rate of 3.2 percent during the first quarter. Revolving credit increased at an annual rate of 5.7 percent, while nonrevolving credit increased at an annual rate of 2.2 percent. In March, consumer credit increased at an annual rate of 1.5 percent.
	FRB Senior Loan Officer Opinion Survey on Bank Lending Practices (05/06/2024) – **Questions on commercial real estate lending.** Over the first quarter, significant net shares of banks reported tightening standards for all types of CRE loans. Such tightening was more widely reported by other banks than by large banks. Meanwhile, a moderate net share of banks reported weaker demand for construction and land development loans, while significant net shares of banks reported weaker demand for loans secured by nonfarm nonresidential and multifamily residential properties. Similar to domestic banks, a significant net share of foreign banks reported tighter standards for CRE loans. However, in contrast to domestic banks, a modest net share of foreign banks reported stronger demand for CRE loans over the first quarter. **Special questions on changes in banks' credit policies on commercial real estate loans over the past year.** A set of special questions asked banks about changes in their credit

policies for each major CRE loan category over the past year. These questions have been asked in each April survey for the past eight years.

Banks reported having tightened all the terms surveyed for each CRE loan type. The most widely reported change in terms, cited by major net shares of banks across all CRE loan types, was the widening of interest rate spreads on loans over the cost of funds. Additionally, significant net shares of banks reported tightening maximum loan sizes, lowering loan-to-value ratios, increasing debt service coverage ratios, and shortening interest-only payment periods for all CRE loan types. In addition, significant net shares of banks also reported tightening the maximum loan maturity for nonfarm nonresidential and multifamily loans, and a moderate net share of banks reported doing so for construction and land development loans. Furthermore, significant net shares of banks reported reducing the market areas served for nonfarm nonresidential and construction and land development loans, while a moderate net share of banks reported doing so for multifamily loans. Foreign banks reported tightening across almost all terms for each CRE loan type.9

The most cited reasons for tightening credit policies on CRE loans over the past year, cited by almost all banks, were less favorable or more uncertain outlooks for CRE market rents, vacancy rates, and property prices. Additionally, major net shares of other banks cited a reduced tolerance for risk, increased concerns about the effects of regulatory changes or supervisory actions, and a less favorable or more uncertain outlook for delinquency rates on mortgages backed by CRE properties.

The survey also asked banks about the reasons why they experienced weaker or stronger demand for CRE loans over the past year. More banks responded with reasons for weakened demand than for strengthened demand for CRE loans. The most frequently cited reasons for weaker demand, as reported by major net shares of banks, were an increase in the general level of interest rates, a decrease in customer acquisition or development of properties, and a less favorable or more uncertain customer outlook for rental demand. Of the smaller but sizable share of banks that reported stronger demand, the most frequently cited reasons for stronger demand, as reported by significant net shares of banks, were an increase in customer acquisition or development of properties, a shift in customer borrowing to respondent banks from other banks and non-bank sources, and a decrease in internally generated funds by customers.

Lending to Households

Questions on residential real estate lending. Over the first quarter, banks reported having tightened lending standards for some RRE loan categories.10 Modest net shares of banks reported tightening standards for non-qualified mortgage (QM) jumbo, non-QM non-jumbo, subprime, and QM non-jumbo non-government-sponsored enterprise (GSE)-eligible mortgage loans. However, lending standards remained basically unchanged for GSE-eligible mortgages, government mortgages, and QM jumbo mortgages. While large banks reported net easing of standards, other banks reported net tightening of standards for most RRE loan types. In addition, a moderate net share of banks reported tightening lending standards for HELOCs.

	Meanwhile, banks reported weaker demand, on balance, for all categories of RRE loans and HELOCs over the first quarter. Significant net shares of banks reported weaker demand for subprime and non-QM mortgages, while moderate net shares of banks reported weaker demand for most other RRE loan categories. Similarly, a moderate net share of banks reported weaker demand for HELOCs. **Questions on consumer lending.** Over the first quarter, banks reported tightening lending standards and most terms, on net, for all consumer loan categories.11 Significant net shares of banks reported tightening standards for credit card loans, while moderate and modest net shares of banks reported tightening standards for other consumer loans and auto loans, respectively. Banks also reported tightening most queried terms on all consumer loan categories over the first quarter. A significant net share of banks reported increasing minimum credit score requirements for credit card loans, while moderate net shares of banks reported doing so for auto loans and other consumer loans. Meanwhile, modest or moderate net shares of banks reported decreasing the extent to which loans are granted to customers not meeting credit scoring thresholds and increasing spreads of interest rates over the cost of funds for all consumer loan categories. Other queried terms and conditions were left unchanged across these loans, on balance, with the exception of credit limits for credit card loans, which a significant net share of banks reported having tightened. Regarding demand for consumer loans, a significant net share of banks reported weaker demand for auto loans, while moderate net shares of banks reported weaker demand for credit card loans and other consumer loans in the first quarter. ***Comment: This report is particularly interesting. Lending standards have moved in a roller coaster fashion in recent years. But with these survey results showing a smaller net percentage of banks tightening standards for most loan categories, it seems the sentiment is that the worst is behind us as long as the risk to the overall economic outlook and inflation continues to move in the right directions.***

Technology / Security

	CISA and Partners Release Advisory on Black Basta Ransomware (05/07/2024) – CISA, in partnership with the Federal Bureau of Investigation (FBI), the Department of Health and Human Services (HHS), and the Multi-State Information Sharing and Analysis Center (MS-ISAC) released joint Cybersecurity Advisory (CSA) #StopRansomware: Black Basta to provide cybersecurity defenders tactics, techniques, and procedures (TTPs) and indicators of compromise (IOCs) used by known Black Basta ransomware affiliates and identified through FBI investigations and third-party reporting. Black Basta is a ransomware-as-a-service (RaaS) variant, first identified in April 2022. Black Basta affiliates have targeted over 500 private industry and critical infrastructure entities, including healthcare organizations, in North America, Europe, and Australia.

	CISA and partners encourage organizations to review and implement the mitigations provided in the joint CSA to reduce the likelihood and impact of Black Basta and other ransomware incidents. For more information, see StopRansomware.gov and the #StopRansomware Guide. ***Comment: "Black Basta is a ransomware operator and Ransomware-as-a-Service (RaaS) criminal enterprise that first emerged in early 2022 and immediately became one of the most active RaaS threat actors in the world, racking up 19 prominent enterprise victims and more than 100 confirmed victims in its first few months of operation. Black Basta targets organizations in the US, Japan, Canada, the United Kingdom, Australia, and New Zealand in highly targeted attacks rather than employing a spray-and-pray approach. The group's ransom tactics use a double extortion tactic, encrypting their victim's critical data and vital servers and threatening to publish sensitive data on the group's public leak site." – Blackberry Security.***

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

03.28.2024 **FinCEN** Request for Information and Comment on Customer Identification Program Rule Taxpayer Identification Number Collection Requirement SUMMARY: FinCEN, in consultation with staff at the Office of the Comptroller of the Currency (OCC), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), and the Board of Governors of the Federal Reserve System (Board) (collectively, the "Agencies"), seeks information and comment from interested parties regarding the Customer Identification Program (CIP) Rule requirement for banks to collect a taxpayer identification number (TIN), among other information, from a customer who is a U.S. person, prior to opening an account (the "TIN collection requirement"). Generally, for a customer who is an individual and a U.S. person ("U.S. individual"), the TIN is a Social Security number (SSN). In this request for information (RFI), FinCEN specifically seeks information to understand the potential risks and benefits, as well as safeguards that could be established, if banks were permitted to collect partial SSN information directly from the customer for U.S. individuals and subsequently use reputable third-party sources to obtain the full SSN prior to account opening. FinCEN seeks this information to evaluate and enhance its understanding of current industry practices and perspectives related to the CIP Rule's TIN collection requirement, and to assess the potential risks and benefits associated with a change to that requirement. This notice also serves as a reminder from FinCEN, and staff at the Agencies, that banks must continue to comply with the current CIP Rule requirement to collect a full SSN for U.S. individuals from the customer prior to opening an account ("SSN collection requirement"). This RFI also supports FinCEN's ongoing efforts to implement section 6216 of the Anti-Money Laundering Act of 2020, which requires FinCEN to, among other things, identify regulations and guidance that may be outdated, redundant, or otherwise do not promote a risk-based anti-money laundering/countering the financing of

terrorism (AML/CFT) regime. **DATES: Written comments on this RFI are welcome and must be received on or before May 28, 2024.**