InfoSight

Compliance eNewsletter

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InfoSight News

July 1, 2020 Effective Date Reminders

- **Expedited Funds Availability Act** - Regulation CC in the **Accounts Channel** was previously updated to include changes effective July 1, 2020, which included:
    - Increasing the "next day availability" amount from $200 to $225 and the "Large Dollar" amount from $5,000 to $5,525;
    - Eliminating "non-local" checks;
    - Threshold amounts for funds availability will be adjusted for inflation every 5 years.
- **HMDA Reporting Thresholds** were previously updated in the **Home Mortgage Disclosure Act Channel** to include the change in the reporting threshold for closed-end mortgage loans from 25 to 100.

Compliance and Advocacy News & Highlights

FinCEN guidance on due diligence for hemp-related customers

FinCEN has issued Guidance FIN-2020-G001 to address questions related to Bank Secrecy Act/Anti-Money Laundering (BSA/AML) regulatory requirements for hemp-related business customers. The guidance:

- Explains how financial institutions can conduct due diligence for hemp-related businesses
- Identifies the type of information and documentation financial institutions can collect from hemp-related businesses to comply with BSA regulatory requirements
- Is intended to enhance the availability of financial services for, and the financial transparency of, hemp-related businesses in compliance with federal law
- Supplements the December 3, 2019, interagency statement on providing financial services to customers engaged in hemp-related businesses
- Does not replace or supersede FinCEN's previous guidance on the BSA expectations regarding marijuana-related businesses

Source: FinCEN

FinCEN Issues Advisory on Imposter Scams and Money Mule Schemes Related to COVID-19

On July 7, 2020, FinCEN issued an important advisory (FIN-2020-A003) to alert financial institutions to potential indicators of imposter scams and money mule schemes -- two forms of consumer fraud observed during the COVID-19 pandemic. The advisory contains descriptions of imposter scams and money mule schemes, financial red flag indicators for both, and information on reporting suspicious activity. FinCEN also has additional information on their Coronavirus Updates site.

Source: FinCEN

Field of Membership – Rural Districts (Letters to Credit Unions)

On June 29, 2020, the Supreme Court denied the American Bankers Association's petition to review the D.C. Circuit Court of Appeal's decision on the NCUA's field of membership rules. This ends nearly four years of uncertainty and helps the NCUA foster greater financial inclusion for all Americans.

The lack of financial access is especially prevalent in rural communities, which have experienced the withdrawal of financial institutions over the last decade. The Supreme Court's decision will assist the agency's efforts to bring these important and often overlooked communities back into the financial mainstream.

Read the Letter to Credit Unions

Source: NCUA

CFPB proposes EGRRCPA-required HPML escrow exemption

The CFPB has issued a notice of proposed rulemaking that would amend Regulation Z to provide a new exemption available to certain insured depository institutions and insured credit unions from the requirement to establish escrow accounts for certain higher-priced mortgage loans (HPMLs), to implement an amendment to Regulation Z made by section 108 of the Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA).

The proposed amendment generally would exempt from the Regulation Z HPML escrow requirement any loan made by an insured depository institution or insured credit union and secured by a first lien on the principal dwelling of a consumer if

- the institution has assets of $10 billion or less;
- the institution and its affiliates originated 1,000 or fewer loans secured by a first lien on a principal dwelling during the preceding calendar year;

- the institution meets the requirement in § 1026.35(b)(2)(iii)(A) relating to making a covered transaction secured by a first lien on a property located in a "rural" or "underserved" area; and
- the institution and its affiliates do not maintain an escrow account other than those established for HPMLs at a time when the creditor may have been required by the regulation to do so or those established after consummation as an accommodation to distresses consumers.

Comments on the proposal will be accepted for 60 days following Federal Register publication.

Source: CFPB

OFAC Issues reminder to file Blocked Asset Report

OFAC has posted a reminder to file the 2020 Annual Report of Blocked Property (ARBP).

The Reporting, Procedures and Penalties Regulations (RPPR) require holders of blocked property to provide OFAC with a comprehensive list of all blocked property held as of June 30 of the current year by September 30 (no report is required if no blocked property is held on June 30).

The term "blocked property" only applies to property that is blocked under OFAC regulations. Property that was unblocked by an OFAC general or specific license or was previously blocked pursuant to a sanctions program that was terminated on or before June 30, 2020, is not considered blocked property, and should not be reported in the ARBP. Similarly, a restricted account of a person ordinarily resident in Iran is not blocked, and should not be reported to OFAC in the ARBP, unless there is an interest in the account of a person whose property and interests in property are blocked pursuant to an applicable sanctions authority.

Failure to submit a required ARBP by September 30 constitutes a violation of the RPPR. For more information see OFAC's Guidance on Filing the Annual Report of Blocked Property

Source: OFAC

Agencies Release Proposed Revisions to Interagency Questions and Answers Regarding Flood Insurance

Five federal regulatory agencies recently requested public comment on new and revised Interagency Questions and Answers Regarding Flood Insurance(opens new window). The Interagency Questions and Answers, which provide information addressing technical flood insurance-related compliance issues, were last updated in 2011.

The agencies are proposing new questions and answers for inclusion in the Interagency Questions and Answers in light of changes to flood insurance requirements under the agencies' joint rule regarding loans in special flood hazard areas. This rule was promulgated in 2015 to implement provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 and the Homeowner Flood Insurance Affordability Act of 2014.

The proposal incorporates new questions and answers in several areas, including:

- The escrow of flood insurance premiums;
- The detached structure exemption to the mandatory purchase of flood insurance requirement; and
- Force-placement procedures.

The proposal also revises existing questions and answers to improve clarity and reorganizes questions and answers by topic to make it easier for users to find and review information related to technical flood insurance topics. The proposal is intended to help reduce the compliance burden for lenders related to the federal flood insurance laws.

Separately, the agencies plan to propose new questions and answers at a later date on the private flood insurance requirements implemented by their February 2019 final rule.

The agencies invite comment on this proposal. Comments will be accepted for 60 days after publication in the Federal Register.

Source: NCUA

Financial Regulators Issue Statement on Managing the LIBOR Transition

The members of the Federal Financial Institutions Examination Council (FFIEC) in a recent statement highlighted the risks that will result from the transition away from LIBOR, and encouraged supervised institutions to continue their efforts to transition to alternative reference rates in order to mitigate financial, legal, operational, and consumer protection risks.

The financial services industry uses LIBOR as a reference rate for many financial products and instruments that include loans, investments, and deposits to a range of customers, as well as borrowings and derivatives. While some smaller and less complex institutions may have limited exposure to LIBOR- denominated instruments, the transition to alternative reference rates will affect almost every institution.

The statement also highlights the legal and consumer compliance risks associated with inadequate fallback language, when the contractual language does not contemplate LIBOR's permanent discontinuance. Institutions should take steps to identify and address existing contracts with inadequate fallback language to mitigate potential legal risk as well as safety and soundness risk.

Financial institutions should have risk management processes in place to identify and mitigate their LIBOR transition risks that are commensurate with the size and complexity of their exposure and third-party servicer arrangements. The statement identifies areas where supervisory staff will focus their reviews of LIBOR transition planning and risk mitigation efforts at regulated institutions.

Source: FFIEC

Articles of Interest

- CFPB Announces Consumer Financial Protection Week, Virtual Events Nationwide
- CFPB publishes Spring 2020 rulemaking agenda
- CLF Borrowing Capacity Exceeds $25 Billion
- PPP Reopened With August 8, 2020 Deadline

CUNA's Advocacy Resources:

- This week in Washington
- CUNA Advocacy Issues - COVID-19

Compliance Calendar

- July 21st, 2020: **Remittance Transfers (Regulation E)**
- July 26th, 2020: **5300 Call Report Due to NCUA**
- September 7th, 2020: Labor Day - Federal Holiday
- October 12th, 2020: Columbus Day - Federal Holiday
- October 25th, 2020: **5300 Call Report Due to NCUA**