

FICC TELEBRIEFING

September 29 and 30, 2021

Nacha Rules Update

PRESENTED BY

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In this briefing, we will review several recent changes to the Nacha Operating Rules with a focus on the Limitation on Warranty Claims, Reversals and Meaningful Modernization Amendments. We will also discuss possible updates needed to agreements and other documentation as a result of these changes.

1. **Meaningful Modernization Rules.** New Rule Effective 9/17/2021.

a. **Objectives:**

- i. Improve & simplify ACH user experience.
- ii. Facilitate adoption of new technologies and channels for the authorization & initiation of ACH Payments.
- iii. Reduce barriers to use of ACH Network.
- iv. Provide clarity and increasing consistency around certain ACH authorization processes.
- v. Reduce administrative burdens related to ACH authorizations.

b. **5 Amendments:**

- i. Standing Authorizations Rule.
- ii. Oral Authorizations Rule
- iii. Other Authorization Issues Rule.
- iv. Alternative to Proof of Authorization Rule.
- v. Written Statement of Unauthorized Debit via Electronic or Oral Methods Rule

c. **The Standing Authorizations Rule**

- i. Generally:
 - (1) Allows businesses and consumers to make more flexible payment arrangements for ongoing relationships.
 - (2) Fills in the gap between recurring payments (e.g. monthly utility bill) and single payments (e.g. credit card payment).
 - (3) Flexibility re use of SEC codes for individual Subsequent Entries.
- ii. New Definitions:

(1) **“Standing Authorization”**: an advance authorization by a Receiver of future Entries to the Receiver’s Consumer Account that requires further affirmative action by the Receiver to initiate those future Entries (**new Section 8.107**).

- Can be obtained in writing or orally.

(2) **“Subsequent Entry”**: an Entry to a Consumer Account that is initiated by a Receiver’s affirmative action in accordance with the terms of a Standing Authorization (**new Section 8.108**).

- Can be initiated in any manner identified in the Standing Authorization.

d. The Oral Authorizations Rule

i. New Definitions:

(1) **“Oral Authorization”**: a remote (not in-person) oral authorization of one or more Entries to a Consumer Account. An authorization that is created by voice-to-text technology is not considered an Oral Authorization if it is either (a) visually reviewed and confirmed by the Receiver prior to delivery to the Originator, or (b) used by Receiver without prompting by the Originator.

ii. Defines and allows Oral Authorizations as valid authorization method for consumer debits distinct from a telephone call.

e. Other Authorization Issues Rule

i. New Definitions:

(1) **“Recurring Entry”**: an Entry to a Consumer Account that recurs at substantially regular intervals, without further affirmative action by the Receiver to authorize those future Entries.

ii. The Other Authorization Issues Rule will:

(1) Re-organize general authorization rules to incorporate Standing Authorizations, Oral Authorizations and other changes.

(2) State that authorization of any credit entry to a consumer account and any entry to a non-consumer account can be by any method allowed by law or regulation. Only consumer debit authorizations require a writing that is signed or similarly authenticated.

(3) Apply the standards “readily identifiable” and “clear and readily understandable terms.”

- (4) Apply minimum data standards.

f. Alternative to Proof of Authorization Rule

- i. **Previously:** RDFI requests proof of authorization and Originator required to provide proof to their ODFI in such time that ODFI can respond to RDFI's request within 10 banking days.
- ii. **Now:** There is an alternative. ODFIs and Originators may agree to accept the return of the debit rather than expend time and resources to provide the proof of authorization. But, if the RDFI still wants proof, ODFI and Originator must provide it within 10 days of subsequent request.
- iii. **New Rule:** (Article II, Subsection 2.3.2.7(b))(red portion is new)

Upon receipt of an RDFI's written request, the ODFI must:

- (1) provide the original, copy or other accurate Record of the Receiver's authorization, **including, with regard to a Standing Authorization, evidence of the Receiver's affirmative action to initiate a Subsequent Entry in accordance with the terms of the Standing Authorization,** to the RDFI within ten Banking Days without charge.

OR

- (2) **confirm to the RDFI in writing the ODFI's agreement to accept the Return of the Entry that is the subject of the RDFI's inquiry at any time within ten Banking Days of providing the confirmation to the RDFI, without regard to any other time limits on Returns under these Rules.**

Where the ODFI has accepted, or has agreed to accept, the Return Entry, and the RDFI subsequently still requests evidence of authorization of the Entry, the ODFI must provide the original, copy or other accurate Record to the RDFI within ten Banking Days of the RDFI's subsequent request to the ODFI for a copy of the Receiver's authorization.

- iv. Similar language applies to CCD, CTX and IAT Entries, See Article II, Subsection 2.3.3.3.

g. Written Statement of Unauthorized Debit via Electronic or Oral Methods Rule

- i. **Rule Change:** Clarifies and makes explicit that a WSUD may be obtained and signed electronically. The following is added at the bottom of the

Article Three, Subsection 3.12.4 (Form of Written Statement of Unauthorized Debit):

“An RDFI may obtain a Written Statement of Unauthorized Debit as an Electronic Record, as permissible in Subsection 1.4.3 (Electronic Record Creation and Retention). An RDFI may accept a consumer’s Electronic Signature, as permissible in Subsection 1.4.4 (Electronic Signatures), for a Written Statement of Unauthorized Debit regardless of its form or the method used to obtain it.”

ii. **Impacts:**

- (1) Resolves existing confusion regarding electronic or oral acceptance of WSUDs.
- (2) ODFI’s that request WSUDs may receive in various formats.
- (3) RDFIs that want to accept WSUDs by electronic and oral forms will need to incorporate new procedures and technology
- (4) Should reduce administrative burden on RDFI’s and their customers.

h. Contract Updates

i. Originators may need to update Authorization Forms:

- (1) If they choose to use Standing Authorizations and Subsequent Entries
- (2) If they choose to use expanded applicability of Oral Authorizations – to make sure all requirements for oral authorizations are met.
- (3) To ensure they meet the standards of “readily indefinable” and “clear and readily understandable terms”
- (4) To ensure they meet minimum data elements.

2. **Limitation on Warranty Claims Rule.** New Rule Effective 6/30/2021.

a. New Section 1.15 Limitation of Claims Based on Unauthorized Entries was added:

“Except as provided in this Section 1.15, an RDFI shall not initiate a lawsuit, claim, action or proceeding against an ODFI for a violation, breach of warranty, or indemnity under the Rules with respect to an allegation that an Entry was unauthorized if it has been (a) more than two

years after the Settlement Date of an Entry to a Consumer Account, or (b) more than one year after the Settlement Date of an Entry to a Non-Consumer Account. This Section 1.15 does not prohibit an RDFI from initiating a lawsuit, claim, action or proceeding against an ODFI for an alleged breach of warranty, as defined in Subsection 2.4.1.1 (The Entry is Authorized by the Originator and Receiver), or indemnity therefore pursuant to Subsection 2.4.5.1 (Indemnity for Breach of Warranty), with respect to allegedly unauthorized debit Entries to a Consumer Account that settle within 95 calendar days of the Settlement Date of the first such unauthorized Entry to the Consumer Account.”

b. Issues to be aware of related to the rule change.

3. **Reversals Rule.** New Rule Effective 6/30/2021.

a. The Reversals Rule:

i. States that an Originator **or an ODFI** may initiate a Reversing Entry.

ii. Expands the definition of Erroneous Entry.

iii. Provides for specific situations that will be treated as improper uses of a Reversing Entry.

b. Issues to be aware of related to the rule change.

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Recent Developments

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Recent Developments

AML/BSA

Additions to the SDN List. On August 19, 2021, OFAC added three Cubans to the SDN list for violently suppressing peaceful protests in Cuba. On August 20, 2021, the President signed a new [Executive Order Blocking Property with Respect to Certain Russian Energy Export Pipelines](#). OFAC has issued [Russia-related General License 1A](#) and related [FAQ 921](#). OFAC also updated [FAQ 894](#). OFAC has also published [FAQ 919](#) and [FAQ 920](#) that are related to Non-Proliferation Designations Updates. Finally, OFAC added nine Russian individuals, seven Russian entities, and 13 Russian vessels to the SDN list, and imposed restrictions on the permanent importation of firearms or ammunition manufactured or located in Russia pursuant to new or pending permit applications as well as further restrictions on nuclear and missile-related technology exports to Russia, all in relation to the poisoning of Aleksey Navalny. On September 13, 2021, OFAC added four Russian entities to the SDN list.

On August 23, 2021, OFAC added General Filipos Woldeyohannes, the Chief of Staff of the Eritrean Defense Forces, to the SDN list for being a leader or official of an entity that is engaged in serious human rights abuse committed during the ongoing conflict in Tigray. On September 17, 2021, [Executive Order 14046](#) imposed sanctions on Ethiopia and Ethiopians involved human rights violations, attacks on UN personnel, and obstruction of delivery of humanitarian aid in northern Ethiopia. See the White House [Fact Sheet](#) on this EO for further information. In addition, multiple Ethiopian individuals and entities were added to the SDN list, several licenses were issued, and several FAQs were added to the SDN list of FAQs.

On September 16, 2021, OFAC added Columbian Zulma Maria Musso Torres, several family members, and associated entities and individuals, to the SDN list for engaging in drug trafficking activities. On September 16, 2021, OFAC added five al-Qa'ida supporters operating in Turkey to the SDN list. On September 17, 2021, OFAC added individuals and businesses from Kuwait, Lebanon, China, Taiwan and Hong Kong to the SDN list for helping to finance the terrorist group Hizballah. On August 24, 2021, OFAC added three corrupt Paraguay individuals and five corrupt Paraguay entities to the SDN list. On September 2, 2021, OFAC [updated](#) its SDN list. On September 3, 2021, OFAC added four Iranian intelligence operatives who attempted to kidnap a U.S. citizen in the United States and Iranian dissidents in other countries to the SDN list. On September 22, 2021, OFAC added Mexican national Valenzuela Valenzuela, a Sinaloa Cartel plaza boss, and seven other Mexican nationals to the SDN list for their distribution of illegal opioids.

Reuters [reported](#) on September 15, 2021, that “a unit in Afghanistan's central bank leading a 15-year effort to counter illicit funding flows has halted operations....” Reuters also [reported](#) on September 21, 2021, that India seized a shipment of almost two tons of heroin worth \$2.72 Billion that had originated in Afghanistan and was routed through Iran.

On September 21, 2021, OFAC added SUEX OTC, S.R.O. (SUEX), a virtual currency exchange, to the SDN list for its part in facilitating financial transactions for ransomware actors. This is the first of probably many additions to the SDN list to combat ransomware attacks. OFAC also

released an [Updated Advisory on Potential Sanctions Risks for Facilitating Ransomware Payments](#) that advises victims of ransomware attacks not to pay ransom. Other resources regarding the fight against ransomware can be found at [StopRansomware.gov](#).

FinCEN

Proposal to Subject Antiquities Dealers to BSA/AML Requirements. FinCEN issued an [Advance Notice of Proposed Rulemaking](#) to include “person engaged in the trade of antiquities, including an advisor, consultant, or any other person who engages as a business in the solicitation or the sale of antiquities” in the definition of “financial institution” for purposes of BSA and AML requirements. This rule will implement Section 6110 of the Anti-Money Laundering Act of 2020 that changed the definition of “financial institution” in BSA. FinCEN is asking for responses to 16 questions regarding the antiquities markets, and money laundering and terrorism financing occurring within these markets. Comments are due within 30 days after publication of the proposal in the Federal Register.

Child Sexual Exploitation. FinCEN issued a [Notice](#) alerting financial institutions of increases in child sexual exploitation. The Notice includes specific instructions for including certain codes and activity types when filing SARs related to suspected child sexual exploitation crimes. Reporting entities should use the Child Sexual Exploitation (CSE) terms and definitions in the appendix to the Notice when describing suspicious activity, which will assist FinCEN’s analysis of the SARs.

SAR Filing Data. FinCEN updated its SAR Filing by Industry [webpage](#) to include data through December 31, 2020. This webpage also includes links to [Interactive Maps](#) for state geographical displays of SAR filing trends and [Interactive SAR Stats](#).

Workshop on Digital Identity Services and Technologies. FinCEN [announced](#) that it will host a virtual FinCEN [Innovation Hours Program](#) on October 14, 2021, focusing on the role of digital identity to enhance financial services inclusion while supporting efforts to counter illicit activity that undermines the integrity and opportunity of the US financial system.

Fines, Settlements, and Orders

Transgressor	Fine or Order, and Date	Wrongful Action
Bank of China (UK) Limited	\$2,329,991 OFAC fine; 8-26-2021	The bank processed 111 commercial transactions totaling \$40,599,184 through the U.S. financial system on behalf of parties in Sudan.
First Bank SA, (Romania) and its U.S. parent company, JC Flowers & Co.	\$862,318 OFAC fine; 8-27-2021	The bank processed 98 commercial transactions totaling \$3,589,189 through U.S. banks on behalf of parties located in Iran and Syria.

NewTek, Inc.	\$189,483 OFAC fine; 9-9-2021	NewTek exported goods, technology, and services from the United States to third-country distributors that it knew or had reason to know were specifically intended for companies and individuals in Iran.
Cameron International Corporation	\$1,423,766 OFAC settlement; 9-27-2021	U.S.-person senior managers at Cameron approved contracts for its subsidiary, Cameron Romania S.R.L. (“Cameron Romania”), to supply goods to Gazprom-Neft Shelf, a Russian energy firm subject to the restrictions of Directive 4 of E.O. 13662. Schlumberger Rod Lift, Inc facilitated the sale and shipment of oilfield equipment from a Canadian subsidiary of Schlumberger to a Chinese joint venture of Schlumberger for onward delivery to Sudan in violation of prior Sudanese sanctions.

The Banking Exchange [reported](#) that “fines for anti-money laundering (AML) at financial institutions worldwide soared to \$2.2 Billion (£1.6 Billion) last year - five times higher than in 2019.... in the first six months of 2021 a total of \$1Billion of AML fines have been handed out in 17 big actions, already eclipsing the \$444 Million figure in 2019.”

CFPB

Small Business Loan Data Collection. The CFPB finally issued its [propose rule](#) (as an NPRM) for collecting data on small business loans as required by Section 1071 of the Dodd Frank Act. The proposal uses modified definitions from Regulation B and SBA rules, and establishes procedures similar to HMDA reporting requirements. This rule will require covered financial institutions to collect and report data to the CFPB on applications for credit for small businesses, including those that are owned by women or minorities.

The CFPB released a [table of contents](#), a [summary of the proposed rule](#), and [chart of proposed data points](#) to assist the public in reviewing this proposal. The CFPB also released a document describing its [methodology](#) for estimating how many banks would be required to report under the proposed rule and for producing market-level estimates of associated costs. Comments will be due 90 days after the proposal is published in the Federal Register, and a final rule would be mandatory 18 months after publication in the Federal Register. The CFPB will evaluate the first year of information submitted under the final rule to determine what adjustments should be made to the rule.

A financial institution would be a “covered financial institution” if it originated at least 25 credit transactions that would be “covered credit transactions” to “small businesses” in each of the two preceding calendar years. The CFPB proposes to define a business as a “small business” if it had \$5 million or less in gross annual revenue for its preceding fiscal year. A “covered application”

would be an oral or written request for a covered credit transaction that is made in accordance with procedures used by a financial institution for the type of credit requested, not including reevaluation requests, extension requests, or renewal requests on an existing business credit account, unless the request seeks additional credit amounts, and not including inquiries and prequalification requests. “Covered transactions” would include all transactions covered by Regulation B except:

- Financing arrangements wherein a business acquires goods or services from another business without making immediate payment to the business providing the goods or services (i.e., trade credit);
- Public utilities credit as defined in Regulation B, 12 CFR 1002.3(a)(1);
- Securities credit as defined in Regulation B, 12 CFR 1002.3(b)(1); and
- Incidental credit as defined in Regulation B, 12 CFR 1002.3(c)(1), but without regard to whether the credit is consumer credit, is extended by a creditor, or is extended to a consumer.

Covered financial institutions will be required to collect data on a calendar-year basis and report their data to the CFPB by June 1 of the following year. Financial institutions submitting data to the CFPB would be required to provide certain identifying information about themselves as part of their submission. The CFPB is proposing to provide technical instructions for the submission of data in a Filing Instructions Guide and related materials. A covered financial institution would be required to make available to the public on its website, or otherwise upon request, a statement that the covered financial institution’s small business lending application register, as modified by the CFPB, is or will be available on the CFPB’s website. Covered institutions would be required to establish a “firewall,” if feasible, to limit employee access to information about protected classifications, and whether the business is minority or women owned, for employees or officers involved in making any determination concerning the applicant’s covered application. The proposal also includes proposed provisions regarding enforcement of violations, bona fide errors, and safe harbors.

The data points that the CFPB would require reporting of include a unique identifier for each covered application or covered credit transaction, an application date, the application method (i.e., the means by which the applicant submitted its application), the application recipient (indicating whether the application was received directly or indirectly via an unaffiliated third party), the action taken by the financial institution on the application, and the action taken date. For denied applications only, there would be a data point for denial reasons. For applications that are originated or approved but not accepted, there would be data points for the amount originated or approved and for pricing information. The pricing information would include, as applicable, information regarding interest rate, total origination charges, broker fees, initial annual charges, additional cost for merchant cash advances or other sales-based financing, and prepayment penalties; information specifically related to the credit being applied for (i.e., credit type; credit purpose; and the amount applied for), and information related to the applicant’s business (i.e., a census tract based on an address or location provided by the applicant; gross annual revenue for the applicant’s preceding fiscal year; the six-digit North American Industry Classification System (NAICS) code appropriate for the applicant; the number of the applicant’s non-owner workers; the applicant’s time in business; and the number of the applicant’s principal owners); minority-owned business status, women-owned business status, and the ethnicity, race, and sex

of the applicant's principal owners. If an applicant does not provide any ethnicity, race, or sex information for at least one principal owner, the CFPB is proposing that the financial institution must collect at least one principal owner's race and ethnicity (but not sex) via visual observation and/or surname if the financial institution meets in person with any principal owners (including meeting via electronic media with an enabled video component). Minority-owned business status and women-owned business status would only be reported on the basis of information the applicant provides specifically for Section 1071 purposes, and financial institutions would not be permitted or required to report these data points based on visual observation, surname, or any other basis. Records of data collected and reported (and evidence of compliance) must be retained for three years.

Payday Lending Rule Upheld. In [Community Financial Services Association of America, Ltd., and Consumer Service Alliance Of Texas, vs. CFPB](#), the Court upheld the CFPB's payday lending rule (12 CFR Part 1041), but stayed enforcement until June 13, 2022, unless the rule is further appealed and the Court of Appeals grants a stay.

Technical Specifications for Credit Card Agreement Submissions. The CFPB [published](#) technical specifications for card issuer submission of credit card agreements to the CFPB under the CARD Act. These technical specifications include registration information and the URL for the "Collect" website at which issuers (or their designees) can submit required information. This notification of technical specifications and procedural rule becomes effective on August 23, 2021.

- Card issuers selected by the CFPB to participate in the TCCP Survey must submit their data using Collect, starting with the Survey cycle beginning on January 31, 2022, for which responses are due on February 14, 2022. Afterward, issuers selected by the CFFPB to participate in future TCCP Surveys must also use Collect to submit their responses. Issuers selected by the CFFPB to participate in the Survey who do not already use Collect can begin the registration process immediately. Upon receiving their login credentials, issuers will be able to start submitting their Survey responses using Collect.
- Card issuers making credit card agreement submissions to the CFFPB on a quarterly basis must make those submissions using Collect, starting with the submissions for the fourth quarter of calendar year 2021 that are due on January 31, 2022. Subsequent submissions must also be made using Collect, on an ongoing basis. Issuers who do not already use Collect can begin the registration process immediately. All issuers required to make quarterly credit card agreement submissions to the CFFPB must register for Collect by November 1, 2021. Once the issuer receives its login credentials, the issuer will have the ability to review its current submissions and start making the required submissions using Collect, starting on December 1, 2021.
- A card issuer that was a party to one or more college credit card marketing agreements in effect at any time during calendar year 2021 must use Collect to submit to the CFFPB an annual report regarding those agreements by March 31, 2022. Card issuers must submit their annual reports related to college credit card marketing agreements and data using Collect, starting with the submissions that are due on March 31, 2022, and continue to do so on an ongoing basis. Issuers who do not already use Collect can begin the registration process immediately. Once the issuer receives its login credentials, the issuer will have

the ability to start making the required submissions using Collect, starting in January 2022.

Separately, the CFPB published its [annual report on college credit card agreements](#), indicating that the number of such agreements continues to decline.

Amendment of Regulation F. The CFPB [revised](#) the definition of “Chief Privacy Officer” in Regulation F to align the authorities and responsibilities in the regulation to those of its designated Senior Agency Official for Privacy. The CFPB added an additional method for a requester to verify their identity when submitting a Privacy Act request to the CFPB to facilitate electronic or remote identity proofing and authentication. Finally, the CFPB officially withdrew its proposal to delay the implementation of two amendments to Regulation F that were finalized in 2020. This rule is effective September 1, 2021 (the 2020 amendments to Regulation F become mandatory on November 30, 2021).

HMDA LAR Guide Updates. The CFPB posted the FFIEC Filing Instructions Guide [for data collected in 2022](#) and a [Supplemental Guide for Quarterly Filers for 2022](#) on the [CFPB HMDA web page](#). Examples and tables in the Instructions Guide were updated. Sections 1.1 and 2.1 in the Supplemental Guide were updated.

Examination Manual Update. The CFPB Supervision and Examination Manual has a new section titled, “[Compliance Management Review – Information Technology \(CMR-IT\)](#).” The CFPB may evaluate the technology controls of an institution and its service providers. The CFPB may also evaluate an institution’s IT as it relates to compliance with Federal consumer financial laws. This section is used by examiners to assess IT and IT controls as part of a compliance management system review.

CFPB Reports. The CFPB issued a new [Home Mortgage Disclosure Act \(HMDA\) data report](#) on residential mortgage lending trends, which finds that the total number of closed-end loan applications and originations increased substantially between 2019 and 2020, most of which were refinance loans. The CFPB also posted a [blog](#) stating that credit access declined during the pandemic for credit cards, but increased for mortgages and auto loans.

The CFPB issued the report, “[Consumer complaints throughout the credit life cycle, by demographic characteristics](#).” Lower income census tracts, and census tracts with a greater concentration of minority populations are associated with greater rates of submitting credit reporting complaints and delinquent servicing complaints. Higher income census tracts tend to submit a greater share of complaints about loan origination and performing servicing than lower income census tracts. A large increase in complaints about loan originations in 2020 (driven by mortgage complaints) was centered in higher income census tracts and census tracts with fewer minorities. Census tracts with the highest share of white, non-Hispanic consumers submit complaints about loan originations at more than twice the rate as the census tracts with the highest share of Black or African American consumers. Census tracts with the highest share of Black or African American consumers submit the most complaints per resident. Census tracts with a median income between 80% and 120% of their metropolitan statistical area (MSA) or county median tend to submit fewer complaints than census tracts with median incomes less than

80% of their MSA or county median and fewer complaints than census tracts with median incomes greater than 120% of their MSA or county median.

The CFPB issued the report, “[Financial conditions for renters before and during the COVID-19 pandemic](#),” finding that in June 2020, 22% of renters with a credit record were unemployed, compared to 12% of homeowners. Federal financial stimulus programs helped renters recover from the COVID pandemic recession.

Blogs. This month’s blogs include:

- [Did you get a notice that your student loans are transferring to a new servicer? Learn more about what this means for you](#)
- [Do you know how to spot a rental assistance scam?](#)
- [Safely sending money to loved ones in the wake of Haiti earthquake](#)
- [New mortgage servicing rule aims to prevent avoidable foreclosures as protections expire](#)
- [The CDC eviction moratorium has ended: Learn your options](#)

FRB

FinTech Guide and Resources. The FRB, OCC and FDIC published a [guide](#) to help community banks perform due diligence on current and prospective relationships with fintech companies. Use of this guide is voluntary and it does not anticipate all types of third-party relationships and risks. Therefore, a community bank can tailor how it uses relevant information in the guide, based on its specific circumstances, the risks posed by each third-party relationship, and the related product, service, or activity offered by the fintech company.

The guide covers six key areas of due diligence that community banks can consider when exploring arrangements with fintech companies: business experience and qualifications, financial condition, legal and regulatory compliance, risk management and control processes, information security, and operational resilience. The guide highlights practical sources of information that may be useful when evaluating fintech companies.

The FRB also published a [paper](#) to serve as a resource for community banks as they embark on responsible innovation. The paper provides an overview of the evolving landscape of community bank partnerships with fintech companies, including the benefits and risks of different partnership types, and key considerations for engaging in such partnerships.

Remote Authentication Fraud. The FRB published its third and final research brief in a [series](#) on remote authentication fraud. [Authentication Fraud Mitigation Approaches, Key Findings and Recommendations](#) discusses approaches and tools to mitigate remote authentication fraud, as well as possible ways the FRB and industry can work together to improve fraud mitigation, build awareness, and engage industry stakeholders.

Interest Paid to Banks Increases. The FRB [amended Regulation D](#) to increase the rate of interest paid on balances maintained at Federal Reserve Banks by or on behalf of eligible institutions from 0.10% to 0.15%, effective as of July 29, 2021.

FDIC

Updated Manual and FAQ. The FDIC updated its [Consumer Compliance Examination Manual](#). Sections that were updated include [Fair Housing Act](#), and [Home Mortgage Disclosure Act](#). The FDIC also updated its [FAQ on brokered deposits](#).

Webinar on Handling Complaints. The FDIC will host a webinar, “Overview and Updates on Consumer Complaints Management,” on Tuesday, October 5, 2021, from 2:00 p.m. to 3:30 p.m., Eastern Time. FDIC staff will cover how the FDIC receives and manages complaints about FDIC-supervised institutions, the most recent data on those complaints, and how the FDIC uses complaint data to further supervision efforts. FDIC staff will provide analysis on compliance areas that receive the most consumer complaints. Registration for the event is required and is available online [here](#).

Mission Driven Bank Fund. The FDIC [announced](#) the \$120 million Mission-Driven Bank Fund to help mission-driven banks, FDIC-insured minority depository institutions (MDIs) and Community Development Financial Institutions (CDFIs), that support low- and moderate-income, minority, and rural communities. The fund will provide a vehicle to channel private capital and other resources to mission-driven banks to:

- Raise capital necessary to serve their communities more effectively
- Weather the effects of economic downturns and recover more quickly
- Attract technical expertise to grow their operations and expand their service
- Acquire, deploy, and maintain technology solutions
- Build capacity and scale

OCC

New and Updated Booklets. The OCC issued the new ["Model Risk Management"](#) booklet of the Comptroller's Handbook. This booklet:

- presents the concepts and general principles of model risk management.
- informs and educates examiners about sound model risk management practices that should be assessed during an examination.
- provides information needed to plan and coordinate examinations on model risk management, identify deficient practices, and conduct appropriate follow-up.

The OCC issued an updated ["Liquidity"](#) booklet of the Comptroller's Handbook. The updated booklet:

- discusses risks associated with liquidity.
- includes information and examination procedures about liquidity coverage ratio and net stable funding ratio requirements.
- reflects changes in regulations since the booklet was last updated.
- reflects relevant OCC issuances published since this booklet was last updated.
- includes clarifying edits regarding supervisory guidance, sound risk management practices, or legal language.
- revises certain content for general clarity.

The OCC issued a new "[Problem Bank Supervision](#)" booklet that replaces "An Examiner's Guide to Problem Bank Identification, Rehabilitation, and Resolution," dated January 2001, and incorporates OCC Bulletin 2018-33, "Prompt Corrective Action: Guidelines and Rescissions."

The new booklet:

- includes information regarding timely identification and rehabilitation of problem banks and advanced supervision, enforcement, and resolution when conditions warrant.
- includes a comprehensive discussion of the OCC's authority under 12 CFR 6, "Prompt Corrective Action."
- complements other booklets of the *Comptroller's Handbook* and topical OCC and interagency issuances.

The OCC issued a revised "[Earnings](#)" booklet to replace and rescind the "Analytical Review of Income and Expense" booklet. The "Earnings" booklet:

- supplements the earnings core assessments and provides examiners with expanded procedures to use when reviewing earnings for a specific line of business or the bank as a whole.
- provides information regarding how to complete an earnings analysis, highlights key earnings ratios and the components that make up those ratios, and discusses other factors to consider when reviewing a bank's earnings performance.
- discusses sound risk management principles, including appropriate planning, budgeting, and forecasting processes, to ensure that earnings are sufficient to maintain adequate capital and reserves.

The OCC issued a revised "[Regulatory Reporting](#)" booklet to replace and rescind the "Review of Regulatory Reports" booklet. The "Regulatory Reporting" booklet:

- provides information for examiners on common financial regulatory reports, including the call report and other Federal Financial Institutions Examination Council financial reports.
- provides guidance to examiners on how to determine the materiality of a misstatement in a regulatory report and when a refiling might be required.
- discusses sound risk management principles for regulatory reporting, including appropriate board oversight as well as sufficient policies, procedures, personnel, and control systems.
- provides examiners with procedures for assessing a bank's regulatory reporting activities.

Proposed CRA Rule. The OCC issued a [Notice of Proposed Rulemaking](#) (168 pages) to rescind its 2020 CRA rule and replace it with a rule based on CRA rules issued by the FRB and FDIC. Comments must be received on or before October 29, 2021.

Workshops for Community Bank Directors. The OCC announced its fall and winter schedule of free, virtual workshops for boards of directors of community national banks and federal savings associations:

- Building Blocks: Keys to Success for Directors and Senior Management,
- Risk Governance: Improving Director Effectiveness,
- Credit Risk: Directors Can Make a Difference, and
- Operational Risk: Navigating Rapid Changes.

To view the schedule of virtual workshops and register online, visit the OCC's [workshop website](#).

NCUA

CDFI Applications. NCUA [announced](#) that federally insured, low-income credit unions seeking a Community Development Financial Institution (CDFI) certification can apply for the National Credit Union Administration's streamlined qualification process between Sept. 12 and Oct. 15. NCUA will provide qualified credit unions with the necessary information to complete and submit the streamlined certification application to the CDFI Fund. The NCUA's online [program guide](#) has all the necessary instructions for the streamlined qualification process, which was developed through a joint effort by the NCUA and the Community Development Financial Institutions Fund. The CDFI Fund makes the final certification decisions. Credit unions that do not qualify to use the streamlined process may still pursue the CDFI certification through the [standard application](#). See below regarding funding for affordable housing for CDFIs that will eventually be available through the Capital Magnet Fund.

OTHER

Eviction Moratorium Update. The US Court of Appeals for the DC Circuit, like the District Court, [refused](#) to alter its prior decision not to lift the stay on the CDC eviction moratorium. The landlord group prosecuting this lawsuit may or may not be able to pursue this case if the moratorium expires on October 3, 2021, and is not extended.

HOWEVER, the Alabama Association of Realtors, representing landlords, appealed to the US Supreme Court. In a Per Curium (no author) 6-3 [decision](#), a majority of the Justices ruled that the CDC eviction moratorium is not authorized by the Public Health Service Act, the landlords are more than likely to win their arguments against the CDC moratorium, and the stay on the lower court decision is lifted. The dissenting opinion points out that the majority broke with precedent to lift the stay before the merits of the issues are argued before the lower court, and that public health officials were permitted by the public health code to impose an eviction moratorium 100 years ago.

FTC Revises FCRA Rules. The FTC made technical amendments to five FCRA rules pursuant to the Dodd Frank Act. The following changes only apply to motor vehicle dealers: [Address Discrepancy Rule](#), [Affiliate Marketing Rule](#), [Furnisher Rule](#), [Pre-screen Opt-Out Notice Rule](#), and [Risk-Based Pricing Rule](#). In addition to the technical changes to the five rules, the Pre-Screen Opt-Out Rule also added the [web address](#) where consumers can opt-out of credit offers that motor vehicle dealers can use. The Risk-Based Pricing Rule also was updated to include examples that reflect its narrower scope to apply to just motor vehicle dealers. The FTC has created a [web page](#) with tips for consumers with poor credit.

Do Not Call Registry Fees Increase. The FTC [published](#) an annual adjustment to the fees that it charges to businesses that use the FTC Do Not Call Registry to avoid violations of the Telemarketing Sales Rule. The annual fee for access to the Registry for each area code of data rose from \$66 to \$69 per area code. The maximum amount that will be charged to any single

entity for accessing all area codes of data increased from \$18,044 to \$19,017. Entities may add area codes to their subscription during the second six months of their annual subscription period, and the fee for those additional area codes increases to \$35 from \$33. The new fees are effective on October 1, 2021.

Affordable Housing Goals. FHFA significantly increased proposed [low income and minority housing goals](#) for Fannie Mae and Freddie Mac for 2022-2024 compared to the goals for 2018-2021. The proposed housing goals are designed to ensure that the GSEs responsibly promote equitable access to affordable housing that reaches low- and moderate-income families, minority communities, rural areas, and other underserved populations. This year, FHFA is proposing two new single-family home purchase subgoals to replace the existing low-income areas subgoal. One new subgoal targets minority communities; the other continues to target low-income neighborhoods. The new minority census tract subgoal is designed to improve access to fair and sustainable mortgage financing in communities of color. A mortgage qualifies under the new subgoal if the borrower has an income at or below area median income (AMI); the property is in a census tract where the median income is below AMI; and minorities make up at least 30 percent of the population.

The White House also [announced](#) steps to increase affordable housing by:

- relaunching the partnership between the Department of Treasury's Federal Financing Bank and HUD and restarting the HUD Risk Sharing Program;
- expanding financing through Freddie Mac;
- prioritizing homeownership by selling REO properties to non-profits and selling properties in the Second Chance Claims Without Conveyance of Title program, and limiting sales to large investors of certain FHA-insured and HUD-owned properties (the GSEs also announced an extended period for non-profits to purchase REO properties before investors are offered REO properties). FHFA [announced](#) that owner occupants, public entities, and nonprofits will have exclusive ability to buy Fannie Mae and Freddie Mac for 30 days;
- leveraging existing federal funds (block grants) to spur local action, exploring federal levers to help states and local governments reduce exclusionary zoning, and launching learning and listening sessions with local leaders;
- raising FNMA and FHLMC LIHTC investment caps to \$850 million each (see below);
- making funding available for CDFIs through the Capital Magnet Fund;
- allowing FNMA (as well as FHLMC) to purchase loans secured by single-wide manufactured homes; and
- expanding eligibility for Freddie Mac to purchase loans secured by 2-4 family properties.

FHFA [announced](#) that the GSEs will submit Equitable Housing Finance Plans to FHFA by the end of 2021. FHFA's [Request for Input](#) requires Fannie Mae and Freddie Mac to prepare and implement three-year Equitable Housing Finance Plans that describe each GSE's planned efforts to advance equity in housing finance. Under FHFA's oversight, each GSE will identify barriers to sustainable housing opportunities, set goals to address those barriers, undertake meaningful actions to address those barriers, and report on its progress. FHFA [announced](#) that it released several sets of demographic data related to Fannie Mae and Freddie Mac's [fair lending](#) and [housing goals](#) activities.

FHFA [announced](#) that it was suspending the GSEs' Preferred Stock Purchase Agreement limitations (see the April 2021 Recent Developments) on the following loan purchases by the GSEs: purchases from a single lender; purchases of multifamily loans; purchases of loans involving high LTVs or low credit scores; and purchases of loans secured by second homes or investment properties. These limitations were imposed by an amendment to the GSEs' Preferred Stock Purchase Agreements in the waning days of the prior administration. This suspension is in place for one year.

FHFA also announced a [proposed rule](#) to liberalize the strict capital requirements imposed on the GSEs by the prior administration. The proposed rule would:

- Replace the fixed PLBA equal to 1.5% of an Enterprise's adjusted total assets with a dynamic PLBA equal to 50% of the Enterprise's stability capital buffer as calculated in accordance with 12 CFR 1240.400;
- Replace the prudential floor of 10% on the risk weight assigned to any retained CRT exposure with a prudential floor of 5% on the risk weight assigned to any retained CRT exposure; and
- Remove the requirement that a GSE must apply an overall effectiveness adjustment to its retained CRT exposures in accordance with the ERCF's securitization framework in 12 CFR 1240.44(f) and (i).

FHFA [announced](#) that each GSE will be allowed to invest up to \$850 million annually in the Low Income Housing Tax Credit (LIHTC) market. Any investments above \$425 million in a given year are required to be in areas that have been identified by FHFA as markets that have difficulty attracting investors.

Multifamily Loan Forbearance Program Extended. FHFA [announced](#) that Fannie Mae and Freddie Mac will continue to offer COVID-19 forbearance to qualifying multifamily property owners as needed, subject to the continued tenant protections FHFA has imposed during the pandemic. This is the fourth extension of the programs, which were set to expire September 30, 2021. On October 1, 2021, FHFA will allow the Enterprises to continue offering COVID-19 forbearance to qualified multifamily owners, unless otherwise instructed by FHFA. There is no ending date for this forbearance program.

Treasury ACH Rules. The Department of the Treasury, Bureau of the Fiscal Service (Fiscal Service) [proposed to amend its regulation](#) governing the use of the Automated Clearing House (ACH) Network by Federal agencies. The proposal adopts, with some exceptions, the Operating Rules Operating Guidelines (Operating Rules & Guidelines) developed by Nacha as the rules governing the use of the ACH Network by Federal agencies. The proposal would allow Same-Day ACH payments of up to \$1,000,000 to the government and will enable Federal payments in the same amount. The amendment also proposes changes to return reason codes, certain definitions, warranty time periods, security features for ACH entries, the proper circumstances under which an ACH entry may be reversed, and would implement an ACH Contract Registry. The proposal includes five rules that will:

- Explicitly define the use of standing authorizations for consumer ACH debits;
- Define and allow for oral authorization of consumer ACH debits beyond telephone calls;

- Clarify and provide greater consistency of ACH authorization standards across payment initiation channels;
- Reduce the administrative burden of providing proof of authorization; and
- Better facilitate the use of electronic and oral Written Statements of Unauthorized Debit.

SBA Enhances EIDL Program. The SBA [announced](#) that the COVID EIDL loan amount cap increased to \$2 Million, SBA expanded use of funds to pay and prepay business debt, SBA streamlined review processes, and SBA deferred payments. SBA also introduced a 30-day exclusivity window for first approval and disbursement of loans of \$500,000 or less, and established more simplified affiliation requirements to model those of the Restaurant Revitalization Fund.

HECM COVID Relief. FHA issued the following temporary partial waivers to its Home Equity Conversion Mortgage (HECM) policies. These waivers provide mortgagees with expanded flexibility to help senior homeowners with HECMs who are struggling financially due to COVID-19:

- Temporary partial [waiver](#) of [Mortgagee Letter 2015-11](#). This waiver allows mortgagees to offer repayment plans to HECM borrowers with unpaid property charges regardless of their total outstanding arrearage and is effective through June 30, 2022.
- Temporary partial [waiver](#) of [Mortgagee Letter 2016-07](#). This waiver permits mortgagees to seek assignment of a HECM immediately after using their own funds to pay unpaid property taxes and insurance on or after March 1, 2020. Additionally, it eliminates the three-year waiting period for such assignments. The waiver is effective through June 30, 2022.

HUD also extended the forbearance periods for HECM loans in [Mortgagee Letter 2021-24](#). HECM borrowers may request a six month forbearance period and one six month forbearance extension ending no later than six months after the end of the COVID-19 National Emergency or September 30, 2022, whichever is later.

GSE Guide Updates. FNMA Selling Guide Announcement [SEL-2021-06](#) includes the following changes:

- Asset documentation requirements for refinance transactions: reduces the documentation requirements for certain refinances
- Age of appraisal: clarified when an appraisal update or new appraisal is needed
- MBS trade confirmation process update: clarified the lenders' responsibility for notifying us of discrepancies in the terms of a trade
- Miscellaneous update: alignment with previously announced policy changes

In addition, updates to the following are described in this Announcement:

- Uniform instruments: [updated and made improvements to all uniform legal instruments](#) to enhance clarity and usability (the Freddie Mac updated instruments are at <https://sf.freddiemac.com/tools-learning/uniform-instruments/2021-updated-instruments>).
- Special Feature Codes: updated the name and description of Special Feature Code (SFC) 107, New York Co-op Flexibilities

FNMA Servicing Guide Announcement [SVC-2021-06](#) includes the following changes:

- Form 582 requirements: updates seller/servicer requirements related to Form 582, and additional servicer duties and responsibilities for all servicers that service a portfolio size greater than or equal to 20,000 Fannie Mae mortgage loans. FNMA must be notified of certain events, including any actions or events that could have a material adverse effect on a seller/servicer's origination or servicing of Fannie Mae mortgage loans, the financial condition of the business or operations, or the ability to comply with the Lender Contract or requirements of our Guides.
- Mortgage Release™ inspection requirements: FNMA removed the requirement to conduct the final interior property inspection for a Mortgage Release.

FHLMC Will Purchase Mortgage Loans Secured by Group Homes. FHFA [announced](#) that Freddie Mac will purchase mortgages secured by group homes, where the property is owned by an individual. This is a clarification of existing policy.

Model Money Transmitter Act. The Conference of State Bank Supervisors (CSBS) released the model [Money Transmission Modernization Act](#) for state adoption as part of states' broader effort to modernize the state financial regulatory system. The model law will establish a common regulatory floor for money transmission, including stored value, sale of payment instruments, and transmission of fiat and virtual currency. No provision of the model act is effective unless enacted by state legislation.

Climate Change. The Research Institute for Housing America and the Mortgage Bankers Association issued a Special Report, [“The Impact of Climate Change on Housing and Housing Finance.”](#) which points out that the climate is changing, and that the impact of these changes will make allocation of risks difficult. Flood insurance and other hazard insurance as we know them may not survive in their current forms. This report reviews what we know so far about climate change; the likely impacts to housing and housing finance; strategies that can mitigate climate change or adapt to the part of climate change that cannot be averted; and the things firms in housing and housing finance can do to articulate and measure their exposure to climate change.

In addition, the US Treasury Department [announced](#) that the Federal Insurance Office (FIO), in response to President Biden's May 2021 executive order on climate change, is requesting information and soliciting public comment on the insurance sector and climate-related financial risks. FIO's efforts will focus on three initial climate-related priorities: (1) assessing climate-related issues or gaps in the supervision and regulation of insurers, including their potential impacts on U.S. financial stability; (2) assessing the potential for major disruptions of private insurance coverage in U.S. markets that are particularly vulnerable to climate change impacts, as well as facilitating mitigation and resilience for disasters; and (3) increasing FIO's engagement on climate-related issues and leveraging the insurance sector's ability to help achieve climate-related goals.

Reuters [reports](#) that [FEMA's Risk Rating 2.0 system](#) that takes effect on October 1, 2021, will increase flood insurance premiums for 77% of policyholders. “Of the roughly 5 million policyholders in the program, 3.3 million will see monthly payments rise up to \$10, and 3,199 will see an increase of \$100 or more per month... 196,000 people will see their monthly

premiums fall \$100 or more...” See the FEMA infographic at https://www.fema.gov/sites/default/files/documents/fema_risk-rating-2.0-national-rate-analysis.pdf . Existing statutory limits on rate increases require that most rates not increase more than 18% per year. However, some borrowers in highly risky areas will see significant increases in flood insurance premiums each year for several years. See <https://www.nytimes.com/2021/09/24/climate/federal-flood-insurance-cost.html> .

Other Fines and Enforcement Actions:

- On July 8, 2021, the FDIC fined Farmers Bank & Trust, Great Bend, Kansas, \$9500 for unspecified violations of mandatory flood insurance rules, and fined Chillicothe State Bank, Chillicothe, Missouri \$4000 for failing to require flood insurance for manufactured housing loans where the home was located in a flood zone.
- On August 10, 2021, the FRB fined South Shore Bank, Weymouth, Massachusetts \$71,000 for unspecified violations of mandatory flood insurance rules.
- On August 11, 2021, the FRB fined Dime Community Bank, formerly known as BNB Bank, Hauppauge, New York \$11,000 for unspecified violations of mandatory flood insurance rules.
- On August 16, 2021, the OCC fined Washington Federal Bank, National Association, \$40,500 for unspecified violations of mandatory flood insurance rules.
- On August 17, 2021, the CFPB proposed to fine Fair Collections & Outsourcing \$850,000 for failing to conduct reasonable investigations of indirect consumer disputes, resulting in inaccurate information remaining on consumers’ credit reports. The CFPB also alleges that this company and its owner, Michael Sobota, violated federal law by representing that consumers owed certain debts when, in fact, the company did not have a reasonable basis to assert that the consumers owed those debts. The company also failed to review identity theft reports.
- On August 30, 2021, USDOJ and the OCC fined Cadence Bank \$3 million for redlining certain neighborhoods in the Houston, TX area. Cadence Bank will also invest over \$5.5 million to increase credit opportunities for residents of those neighborhoods via loan subsidies, community partnerships, and consumer outreach and education.
- On August 30, 2021, the SEC fined Cetera Advisor Networks LLC, Cetera Investment Services LLC, Cetera Financial Specialists LLC, Cetera Advisors LLC, and Cetera Investment Advisers LLC, Cambridge Investment Research Inc. and Cambridge Investment Research Advisors Inc., and KMS Financial Services Inc. a total of \$750,000 for having insufficient protections against hackers invading and taking over company email accounts, and then sending misleading data breach notifications to their customers.
- On August 31, 2021, the Massachusetts AG obtained a \$1 million judgment against DMB Financial, LLC, and its chief operating officer, Daniel Kwiatek. DMB charged consumers significant fees for negotiating settlements with their creditors, which it typically collected before consumers had achieved any debt forgiveness. DMB also directed consumers to stop paying their debts and to stop communicating with creditors, and to instead make payments into a dedicated “savings” account administered by payment processor Global Client Solutions. Many consumers who DMB enrolled in its program were unable to complete the program and did not emerge “debt free,” as DMB advertised. DMB knowingly and regularly enrolled consumers in unaffordable programs that charged substantial fees and left them in worse financial condition than before. DMB engaged in

the unauthorized practice of law by continuing to represent consumers after they were sued in relation to an enrolled debt.

- On September 1, 2021, the SEC announced that it is suing BitConnect, an online crypto lending platform, its founder Satish Kumbhani, and its top U.S. promoter and his affiliated company, alleging that they defrauded retail investors out of \$2 billion through a global fraudulent and unregistered offering of investments in a program involving digital assets.
- On September 1, 2021, the Massachusetts AG obtained a \$27.2 million judgment against Michigan firm Credit Acceptance Corporation. The lawsuit alleged that CAC made high-interest subprime auto loans that it knew or should have known many borrowers would be unable to repay. The AG's lawsuit noted that while the company profited from these loans, borrowers experienced credit harm and, in some instances, lost their vehicles or down payments. The complaint also alleged that some CAC borrowers were subject to hidden finance charges, which resulted in violations of the state's 21% criminal usury cap, and that CAC engaged in unlawful collection practices. The AG's lawsuit also contained allegations that CAC failed to inform investors that it topped off securitization loan pools with higher-risk loans.
- On September 7, 2021, the CFPB entered into a Consent Order with Better Future Forward, Inc., to stop representing that income share agreements were not loans, to stop charging illegal prepayment penalties, and to provide loan disclosures for these products.
- On September 7, 2021, Massachusetts fined Transworld Systems, Inc. \$2.25 million for making high volume calls to consumers, regularly attempting to collect time-barred debts, and using false and misleading affidavits in an effort to collect private student loan debt on behalf of the National Collegiate Student Loan Trusts. Transworld agreed to significant changes in its business practices, including preventing excessive calls, call attempts, or voicemails to consumers, and requiring all law firms collecting on its behalf to take the same preventative measures. The company will also stop collecting on time-barred debts without providing the appropriate disclosures to consumers and will ensure that it does not produce false or misleading affidavits.
- On September 8, 2021, the CFPB sued LendUp Loans, LLC for violating a 2016 consent order and deceiving tens of thousands of borrowers. In 2016, the CFPB ordered LendUp to pay \$1.83 million in consumer redress and a \$1.8 million civil penalty, and to stop misleading consumers with false claims about the cost of loans and the benefits of repeated borrowing. The company continued making misrepresentations in marketing after entering into the Consent Order, and failed to provide timely or complete adverse action notices to consumers.
- On September 9, 2021, the OCC fined Wells Fargo Bank, N.A. \$250 million for failing to satisfy a 2018 consent order, and for not having an adequate mortgage loss mitigation program.
- On September 13, 2021, the OCC began an administrative trial of five former officers of Wells Fargo Bank, N.A. stemming from the misconduct of the bank over the past decade. The OCC is asking for fines ranging from \$500,000 to \$25 million against the officers, plus orders banning them from working in the banking industry.
- On September 13, 2021, the Court of Appeals for the Sixth Circuit reversed summary judgment for Cenlar FSB in a lawsuit brought by a bankrupt borrower. Cenlar reported a mortgage loan as past due for over a year after the loan was discharged in bankruptcy.

When the borrower alerted Cenlar to the error, the bank's credit reporting changed to "no status" rather than report that the loan was discharged. The District Court dismissed the lawsuit for lack of standing, but the Court of Appeals held that the borrower potentially suffered damages due to a lower credit score that effectively prevented him from obtaining financing for a new car.

- On September 20, 2021, the CFPB sued Credit Repair Cloud and CEO Daniel Rosen for violating TSR and the CFPA by providing substantial assistance or support (the sale of credit repair business software, training and other materials) to credit-repair businesses that engaged in illegal telemarketing practices and charged unlawful advance fees to consumers.
- On September 20, 2021, the OCC issued a Cease and Desist Order against MUFG Union Bank, N.A. based on the bank's unsafe or unsound practices regarding technology and operational risk management and the bank's noncompliance with the Interagency Guidelines Establishing Information Security Standards contained in Appendix B to 12 CFR Part 30. Business Wire [reported](#) on September 21, 2021, that U.S. Bancorp agreed to buy MUFG Union Bank for about \$8 Billion.
- On September 20, 2021, the FTC fined Johnathan Blake Curtis, Anthony DiGiacomo, Grand Bahama Cruise Line, LLC, Ultimate Vacation Group d/b/a Royal Bahama Cruise Line, LLC, Tropical Accommodations, LLC also d/b/ a Grand Celebration Cruise Line, VSC, LLC, and Florida V.S.C. Inc., a total of \$6.4 million for violating the TSR. The companies made calls to numbers on the Do Not Call list, used prerecorded messages, and used a false caller ID. All but \$100,000 of the fine was suspended due to an inability to pay.
- On September 20, 2021, USDOJ settled a lawsuit against the New Jersey Higher Education Student Assistance Authority for violating the SCRA by obtaining default judgments against two servicemembers. Each servicemember will receive \$15,000 in damages, and the Authority will pay a \$20,000 fine.
- On September 22, 2021, California fined F & F Management Inc. \$375,000 for a long list of violations of California consumer protection laws, including collecting time-barred debts, collecting fees illegally, failing to validate debts, using automated phone messages, and failing to provide information to debtors.
- Reuters [reported](#) on September 27, 2021, that Wells Fargo & Co will pay \$37.3 million to settle charges that it "defrauded 771 customers between 2010 and 2017 by systematically charging higher spreads or sales margins on foreign exchange transactions than it promised, and providing financial incentives to salespeople for the overcharges."
- On September 27, 2021, the SEC charged payday lender Sky Group USA LLC with fraudulently raising at least \$66 million through the sale of promissory notes to more than 500 retail investors. Company CEO, Efrain Betancourt, Jr. misappropriated at least \$2.9 million of the funds for personal use, transferred at least another \$3.6 million to friends and family, and used at least \$19.2 million of investors' money to make Ponzi-like payments to other investors.