

FICC TELEBRIEFING

August 29 and 30, 2023

Freedom Mortgage Consent Order

PRESENTED BY

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The CFPB recently issued its first public enforcement order since 2017 regarding RESPA Section 8. The consent order was against **both** the non-bank mortgage loan originator and the real estate brokerage.

Allegations:

The Consent Order issued August 17, 2023 involving Freedom Mortgage Company highlights the areas of concern of the CFPB regarding RESPA Section 8.

The first allegation is that the lender paid for several subscription services and then provided free access to real estate agents and brokers. The subscription services concerned property reports, comparable sales data, foreclosure data, etc. This information is of great value to real estate agents and the CFPB determined that the savings to the agent/broker, was about \$300 per month. The CFPB also found that the agents and brokers who received the free access to the subscription services also referred mortgage business to the lender. The free access was determined to be a “thing of value.” Because of the referrals and the exchange of a thing of value, the CFPB found that RESPA Section 8 was violated.

On top of the subscription services, the CFPB alleges that the lender hosted and subsidized events, including paying for food, beverages, and entertainment for the agents and brokers. The CFPB also found that the lender gave out free tickets to sporting events, charity galas, and other events where the agent and broker would have had to pay for their own admission, food, or alcohol. Because of the value of these items, the CFPB also found that the lender was providing these things to create, maintain, and strengthen mortgage referral business in violation of RESPA Section 8(a). Of note, the lender invited select guests of agents who were chosen because they were the ones who referred the most business or were new agents, with whom the lender was trying to build relationships.

There was also the issue of the marketing services agreements (“MSAs”) that the lender had with various brokerages. The issue with the MSA, is that the lender was providing the co-advertising services rather than the brokerages who were obligated under the MSA. Further, as part of the MSA, the lender required the real estate brokers to promote the lender through the use of an app that the broker was to share with clients. The app featured a photo of the lender’s loan officer and the lender’s logo and included buttons for the client to ask the loan officer for assistance. Further, the MSA stated that the brokerage was supposed to send 15,000 emails per month, with 50% of the content to be dedicated to the lender. However, the brokerage didn’t send any emails. The brokerage was also supposed to maintain three video kiosks featuring the lender’s ads. However, none were set up. The brokerage also didn’t create 75 property websites that included lender’s content. The combination of not providing services under the MSA with the lead generation components, was a violation of RESPA Section 8.

Penalties:

The lender was ordered to pay a civil monetary penalty of \$1.75 million and agreed to create a program to prevent future violations. The real estate broker was assessed a civil money penalty of \$200,000 and is required to meet certain recordkeeping and reporting requirements.

Takeaways:

The actions of the CFPB should come as no surprise. There were multiple instances where the only compensation to the lender was the referral of business. For example, the payment of food, drinks, events, etc., fall within the prohibitions from the 2020 CFPB FAQs, RESPA Section 8: Gifts and Promotional Activity. To be permitted, there must be a distinction between whether you are paying for referrals or conducting marketing activities.

There is no prohibition on MSAs or office rentals, leads, etc. However, they must be done correctly. If you enter into a MSA, the payment for the services must be commensurate with the services performed and must actually be performed by the parties. Going back to the FAQ's that the CFPB issued in 2020 regarding MSAs, a lawful MSA is "an agreement for the performance of marketing services where the payments under the MSA are reasonably related to the value of services actually performed." This is different than an MSA that is structured in a way that is disguised as a referral arrangement. The services provided must be "actual, necessary, and distinct from the primary services performed by the person." <https://www.consumerfinance.gov/compliance/compliance-resources/mortgage-resources/real-estate-settlement-procedures-act/real-estate-settlement-procedures-act-faqs/#respa-section-8-gifts-and-promotional-activity> The services cannot be nominal and cannot be a duplicative charge. Remember, per the CFPB, this is a fact specific question. The key in an effective MSA is not having it dictate the handing of information on the specific lender to a specific client. Rather, the scope makes it so that the marketing is provided to a wide audience. For example, placing advertisements in a widely circulated medium. The actions by the lender and broker in this consent order clearly fall in the prohibited conduct in CFPB FAQ: RESPA Section 8: Marketing Services Agreements, 4.

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Recent Developments

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Recent Developments

AML/BSA

OFAC Sanctions. On July 24, 2023, OFAC added three Malian transition government and military officials to the SDN list for facilitating the deployment and expansion of Wagner Group activities in Mali. On July 27, 2023, OFAC added the head of the finance office of the Somalia-based affiliate of ISIS to the SDN list. On July 31, 2023, OFAC added 51 Balkan individuals and entities to the SDN list. On July 28, 2023, OFAC removed four Venezuelan individuals from the SDN list. On August 3, 2023, OFAC removed one UAE individual and one yacht from the SDN list. On August 9, 2023, OFAC added three Sinaloa Cartel members to the SDN list for their involvement in the illicit trafficking of fentanyl and other deadly drugs. On August 9, 2023, OFAC added 11 Belarus individuals, 5 businesses, and one aircraft to the SDN list. On August 10, 2023, OFAC added Riad Salameh, the former governor of Lebanon's central bank, and several other individuals to the SDN list for their corrupt activities. On August 15, 2023, OFAC added one Iranian individual and one Singapore entity to the SDN list. On August 16, 2023, OFAC added Lebanon-based Green Without Borders, its leader, and several individuals and entities tied to arms deals between north Korea and Russia, to the SDN list for providing support to and cover for Hizballah's operations in southern Lebanon. On August 17, 2023, OFAC added two Syria-based armed militias, an auto dealership, and three members of the groups' leadership structures to the SDN list in connection with serious human rights abuses against those residing in the Afrin region of northern Syria. On August 23, 2023, OFAC issued a determination that allows sanctions to be imposed on any foreign individual or entity that operates in the jet fuel sector of the Burmese economy. Concurrently, OFAC added two individuals and one entity to the SDN list that are involved in the procurement and distribution of jet fuel to Burma's military regime, and two entities for being owned or controlled by such persons. On August 24, 2023, OFAC added six individuals to the SDN list for contributing to the most recent escalation of conflict in the eastern Democratic Republic of the Congo. On August 24, 2023, the State Department added 13 individuals and entities to the SDN list who are connected to forcible transfer and deportation of Ukraine's children to Russia.

On August 4, 2023, OFAC amended the [Mali Sanctions Regulations](#) and reissued them in their entirety. The new rules are effective August 7, 2023. On August 8, 2023, OFAC issued an [OFAC Compliance Communique: Guidance for the Provision of Humanitarian Assistance to Syria](#) in response to questions from the NGO community and the general public on how to provide humanitarian assistance to Syria while complying with OFAC sanctions. OFAC also amended one [Syria Frequently Asked Question \(FAQ 937\)](#). On August 9, 2023, OFAC issued [Belarus General License 8](#) "Authorizing the Wind Down of Transactions Involving Joint Stock Company Byelorussian Steel Works Management Company of Holding Byelorussian Metallurgical Company," and [Belarus General License 9](#) "Authorizing Transactions Related to Civil Aviation Safety or the Wind Down of Transactions Involving Open Joint Stock Company Belavia Belarusian Airlines."

Russia Sanctions. On July 24, 2023, OFAC added three individuals associated with Wagner Group activities in Mali to the SDN list. On August 11, 2023, OFAC added the Russian Association of Employers the Russian Union of Industrialists and Entrepreneurs (RSPP) and four

executives and board members of the Alfa Group Consortium to the SDN list for their involvement with sanctions work-arounds. On August 16, 2023, OFAC added three entities to the SDN list that were connected to a sanction evasion network attempting to support arms deals between Russia and North Korea. On August 17, 2023, OFAC added four individuals to the SDN list who were involved in poisoning of Aleksey Navalny in 2020.

On August 10, 2023, OFAC issued [Russia-related General License 13F](#), "Authorizing Certain Administrative Transactions Prohibited by Directive 4 under Executive Order 14024".

OFAC [announced](#) that it will retire the PIP, DEL, and SDALL.ZIP sanctions list file formats on or about the week of September 18, 2023. OFAC will continue to offer for public download, the XML, CSV, and FF file formats, the ZIP files SDN_XML and SDN Advanced, and PDF versions for OFAC's sanctions list(s). [OFAC's Sanctions List Search tool](#) will not be affected by these changes, and users of the search tool will not experience any loss of service.

Self-Reporting. On July 26, 2023, BIS and OFAC issued a [Tri-Seal Compliance Note: Voluntary Self-Disclosure of Potential Violations](#) to summarize procedures for voluntarily self-disclosing violations of U.S. sanctions and export control laws to DOJ, BIS, and OFAC. The Compliance Note explains that self-disclosing potential violations can provide significant mitigation of civil or criminal liability, while also alerting key national security agencies to activities that may pose a threat to national security and to foreign policy objectives of the United States.

FinCEN

Employment Tax and Workers Compensation Evasion. On August 15, 2023, FinCEN issued a [Notice](#) to financial institutions concerning an increase in state and federal payroll tax evasion and workers' compensation insurance fraud in residential and commercial real estate construction industries. State and federal tax authorities lose hundreds of millions of dollars annually to illicit actors, primarily through bank and check cashers, via the use of shell companies and fraudulent documents. The Notice describes these schemes in detail and lists red flags that financial institutions should watch for to stop these schemes. The Notice also contains specific instructions for identifying these schemes in SARs.

SAR Filing Data. FinCEN published [categorized filing trend data](#) compiled from Suspicious Activity Reports prepared by Casinos/Card Clubs, Depository Institutions, GSEs, Insurance Companies, Loan/Finance Companies, MSBs, Securities/Futures, and other financial institutions, per month from 2014 through 2022. Depository Institution SARs (131,949) increased 28% in 2022 compared to 2021, and more than doubled since 2014. GSE and finance company SARs increased 43% and 38%, respectively, in 2022.

FFIEC Updates to BSA/AML Examination Manual. FFIEC released updates to the following sections of its Bank Secrecy Act/Anti-Money Laundering Examination Manual:

- [Special Information Sharing Procedures to Deter Money Laundering and Terrorist Activity](#)
- [Due Diligence Programs for Correspondent Accounts for Foreign Financial Institutions](#)

- [Due Diligence Programs for Private Banking Accounts](#)
- [Prohibition on Correspondent Accounts for Foreign Shell Banks; Records Concerning Owners of Foreign Banks and Agents for Service of Legal Process](#)
- [Summons or Subpoena of Foreign Bank Records; Termination of Correspondent Relationship; Records Concerning Owners of Foreign Banks and Agents for Service of Legal Process](#)
- [Reporting Obligations on Foreign Bank Relationships with Iranian-Linked Financial Institutions](#)

These updates should not be interpreted as new instructions or increased focus on certain areas; instead, they offer further transparency into the examination process and support risk-focused examination work. Details are available at <https://bsaaml.ffiec.gov>.

Fines, Settlements, and Orders

Transgressor	Fine or Order, and Date	Wrongful Action
Construction Specialties Inc.	\$660,594 OFAC Fine; 8-16-2023	Senior leadership oversaw the purchase and re-exportation of commercial building products by its UAE subsidiary, valued at approximately \$1,100,991, from suppliers in the United States, with the knowledge that these goods were ultimately destined for a customer in Iran.

CFPB

Corrected Agency Addresses in Adverse Action Notices. The CFPB published a [rule](#) to correct the addresses of federal agencies that are listed in adverse action notices (Appendix A to Regulation B, Appendix K of Regulation V, and Appendix J of Regulation Z). This correction is effective on September 25, 2023. The CFPB also revised a chapter heading, made various non-substantive changes to Regulations B and V, and provided a CFPB website address where the public may access certain APR tables referenced in Regulation Z.

Coming Highlights: Data Broker Regulations. The CFPB Director [announced](#) that the CFPB will be developing FCRA rules to prevent abuses by data brokers.

“Two of the proposals under consideration are worth highlighting here:

First, our rules under consideration will define a data broker that sells certain types of consumer data as a “consumer reporting agency” to better reflect today’s market realities. The CFPB is considering a proposal that would generally treat a data broker’s sale of data regarding, for example, a consumer’s payment history, income, and criminal records as a consumer report, because that type of data is typically used for credit, employment, and certain other determinations. This would trigger requirements for ensuring accuracy and handling disputes of inaccurate information, as well as prohibit misuse.

A second proposal under consideration will address confusion around whether so called “credit header data” is a consumer report. Much of the current data broker market runs on personally identifying information taken from traditional credit reports, such as those sold by the big three credit reporting conglomerates – Equifax, Experian, and TransUnion.

This includes key identifiers like name, date of birth, and Social Security number that are contained in consumer reports generated by the credit reporting companies. The CFPB expects to propose to clarify the extent to which credit header data constitutes a consumer report, reducing the ability of credit reporting companies to impermissibly disclose sensitive contact information that can be used to identify people who don’t wish to be contacted, such as domestic violence survivors.”

Small Business Loan Rule. The CFPB updated its [instructions for filing the report of small business lending data collected in 2024](#) (131 pages).

On July 31, 2023, the U.S. District Court for the Southern District of Texas ordered the CFPB not to implement or enforce the rule against plaintiffs in that case, Texas Bankers Ass'n, et al. v. CFPB, No. 7:23-cv-00144, and their members. That order, a copy of which is available [here](#), stays all deadlines for compliance with the rule for plaintiffs in that case and their members.

Supervisory Highlights. The CFPB published its [Summer 2023 Supervisory Highlights](#) detailing the major regulatory violations found in its recent examinations. The highlights are worth reviewing to see where the CFPB is finding violations and where regulators are concentrating their investigations. This document also summarizes CFPB supervisory policy statements, circulars, and bulletins issued during the past six months.

Blogs. This month’s blogs include:

- [Recovering financially from the Hawaii wildfires](#)
- [What we’re hearing from consumers in New Mexico](#)
- [Financial struggles in Puerto Rico bite deeper than the rest of the United States](#)
- [Federal housing agencies strongly encourage landlords to provide tenants written notice of their rights](#)
- [Looking at credit scores only tells part of the story – cashflow data may tell another part](#)

FRB

Cyber Activities Guidance. The FRB published two Supervision and Regulation Letters containing guidance for financial institutions that engage in “novel activities” (i.e., cyber activities):

- [SR 23-7: Creation of Novel Activities Supervision Program](#). Novel activities include complex, technology-driven partnerships with non-banks to provide banking services to customers; and activities that involve crypto-assets and distributed ledger or "blockchain" technology. The goal of the novel activities supervision program is to foster the benefits of financial innovation while recognizing and appropriately addressing risks to ensure the safety and soundness of the banking system. The program will be integrated into the

Federal Reserve's existing supervisory processes, with program experts working alongside current supervisory teams to oversee banks engaged in novel activities.

- [SR 23-8 / CA 23-5: Supervisory Nonobjection Process for State Member Banks Seeking to Engage in Certain Activities Involving Dollar Tokens](#). These letters contain additional information on the process for a state bank supervised by the Federal Reserve to follow before engaging in certain dollar token or stablecoin activity, including demonstrating to its Federal Reserve supervisors that it has appropriate safeguards to conduct the activity safely and soundly.

FDIC

Basel III Capital Requirements. The FDIC, FRB and OCC jointly issued a [proposal](#) that would revise the measurement of risk-weighted assets and the definition of regulatory capital applicable to large banking organizations. *Capital requirements would not change for community banks.*

- The proposal would replace the advanced approaches for calculating risk-weighted assets with the expanded risk-based approach. The expanded risk-based approach would include (1) a new standardized approach for credit risk and operational risk; (2) a revised internal models-based approach and a new standardized measure for market risk; and (3) a new revised approach for CVA.
- The expanded risk-based approach would apply to Category I, II, III, and IV banking organizations. The market risk framework would also apply to other banking organizations with \$5 billion or more in trading assets plus trading liabilities or for which trading assets plus trading liabilities represent 10% or more of total assets.
- The proposal would require banking organizations subject to Category III and IV standards to calculate their regulatory capital in the same manner as banking organizations subject to Category I and II standards, including the treatment of accumulated other comprehensive income, capital deductions, and rules for minority interest.
- The proposal would apply the supplementary leverage ratio and the countercyclical capital buffer to banking organizations subject to Category IV standards.
- The proposal includes a three-year transition period beginning July 1, 2025.

Comments on this proposal are due by November 30, 2023. See also [the Interagency Overview of the Notice of Proposed Rulemaking for Amendments to the Regulatory Capital Rule](#) and the [Fact Sheet](#) regarding this proposal for more information. These proposed capital requirements are in addition to the individual capital requirements for large banks [announced](#) by the FRB that will be effective on October 1, 2023.

Liquidity Risk Management. The FDIC, OCC and NCUA published an [addendum](#) to existing guidance on liquidity risks and contingency planning to highlight that depository institutions should regularly evaluate and update their contingency funding plans. The updated guidance encourages depository institutions to incorporate the discount window as part of their contingency funding plans (the Central Liquidity Facility offers contingency funding for credit unions).

Estimated Uninsured Deposits Reporting Expectations. [FIL-37-2023](#) states that some banks are not reporting estimated uninsured deposits in accordance with the instructions to the Call Report. If a bank has deposit accounts with balances in excess of the federal deposit insurance limit that it has collateralized by pledging assets, such as deposits of the U.S. Government and of states and political subdivisions in the U.S., the bank should make a reasonable estimate of the portion of these deposits that is uninsured using the data available from its information systems. All deposits of subsidiaries (except an insured depository institution subsidiary that is accounted for under the equity method of accounting instead of consolidating) that are consolidated and, therefore, eliminated from reported deposits on the balance sheet, must be reported in Schedule RC-O, items 1 through 3, Memorandum item 1 and, if applicable, Memorandum item 2, estimated amount of uninsured deposits. This Financial Institution Letter does not impact institutions with less than \$1 billion in total assets that do not report estimated uninsured deposits.

2023 Risk Review. The FDIC's [2023 Risk Review](#) (83 pages) discusses the principal credit risks, market risks, and operational risks to banks. Special attention is given to cybersecurity, cryptoasset, and climate related financial risks.

Technical Assistance Videos. The FDIC offers elementary [videos](#) on nine topics for board members. This FDIC also offers six videos on interest risk, six videos comprising a community bank cyber exercise, eight videos on fair lending issues, and four videos on Qualified Mortgage rules, all intended for bank officers and bank employees.

Trust Account Deposit Insurance. We want to remind everyone that a 2022 rule changing the FDIC coverage of trust accounts is effective in April 2024. Please review the FDIC [webinar slides](#) on this topic with your institution's personnel.

OCC

Loan Limits for Purchased Loans. [OCC Bulletin 2023-27](#) provides background information on loan purchase activities and the legal lending limit (LLL), and provides guidance on the applicability of the LLL to purchased loans and types of recourse arrangements. Unless an exception applies, all loans and extensions of credit made by banks are subject to the LLL. Aggregate exposures attributable to a single seller must be within the bank's LLL. Loans are attributable to a seller under 12 CFR 32.2(q)(1)(iii) if the bank has direct or indirect recourse to the seller. Direct or indirect recourse can be explicit or implied. Explicit recourse is generally provided under contractual arrangement or other written agreement between the bank and the seller. Implied recourse is established through the bank's course of dealing or conduct with a seller even if the contract or written agreement with the provider does not contain explicit recourse. The following are examples of explicit and implied recourse scenarios:

- **Explicit recourse:** Examples include a requirement or contractual obligation to substitute or repurchase defaulted loans or refill a reserve account, even if no substitutions, repurchases, or replenishments of the reserve account have occurred to date.
- **Implied recourse:** Examples include when the seller has routinely substituted or repurchased loans or refilled or replenished a reserve account even when the contract does not require those actions.

If the bank does not have explicit or implied recourse to the seller, the loans are generally not attributable to the seller under 12 CFR 32.2(q)(1)(iii). In such cases, the purchased loans would generally be attributable under the LLL regulation to only the named borrowers on the loans, unless the direct benefit or common enterprise tests under 12 CFR 32.5 are met or other provisions under the LLL regulation warrant attribution to another party.

Bank Accounting Advisory Series Update. The OCC published its [annual update to the Bank Accounting Advisory Series](#) (BAAS). The BAAS contains staff responses to frequently asked questions from the banking industry and bank examiners on a variety of accounting topics and promotes consistent application of accounting standards and regulatory reporting among national banks and federal savings associations. This edition of the BAAS reflects updates to clarify the application of accounting standards issued by the Financial Accounting Standards Board on topics including the elimination of recognition and measurement of troubled debt restructurings by creditors, loan modifications, and credit losses.

Special Purpose Credit Program. The OCC, FHFA, HUD, and the CFPB will host a roundtable discussion to promote special purpose credit programs on September 12, 2023, at 3:00 p.m. EDT. HUD Secretary Marcia L. Fudge, Acting Comptroller of the Currency Michael J. Hsu, FHFA Director Sandra L. Thompson, and CFPB Director Rohit Chopra are scheduled to offer remarks at the event. This program is accessible via the Internet only. A link to the livestream event will be available on [this web page](#) on September 12, 2023, no later than 2:00 p.m. EDT. For further information, contact SPCPRoundtable@occ.treas.gov. Additional resources regarding special purpose credit programs are available from a February 2023 FDIC roundtable sponsored by the FDIC:

- [FDIC CRA Resources](#)
- [Interagency Statement on Special Purpose Credit Programs Under the Equal Credit Opportunity Act and Regulation B](#)
- [Overview of Special Purpose Credit Programs Under the Equal Credit Opportunity Act](#)

OTHER

GSE News. FNMA and FHLMC are further restricting the personnel at a lender who may order an appraisal, property evaluation, or property inspection in relation to origination of a residential loan. FNMA published “[Property Data Collector Independence Requirements](#)” and “[Appraiser Independence Requirements](#)” (these most recent versions of these policy statements are dated August 2, 2023). The “Property Data Collector Independence Requirements” are substantially the same as the “Appraiser Independence Requirements.” Property Data Collector Independence Requirements apply to situations where a formal appraisal is not being generated.

These policy statements prohibit Loan Originators (and all of their production staff and immediate supervisors of production staff), loan officers, or Mortgage Brokers from selecting the AMC or any other entity or person involved in collecting property data or preparing an appraisal, whether from an approved list of Independent Parties or from any other source. There is a limited exception for extremely small organizations without enough personnel to have a totally independent person select the person or entity collecting property data. You should

examine Section III of the “Property Data Collector Independence Requirements” policy closely, as well as the provisions of the “Appraiser Independence Requirements”. Section III of the former document provides a detailed description of the restrictions of this FNMA policy.

An intermediary AMC is no longer sufficient to insulate the appraiser from the loan originator. Production staff and their supervisors may no longer contact an AMC to order an appraisal or other property information in a FNMA or FHLMC loan. Freddie Mac adopted the same Appraiser Independence Requirements (AIR) and introduced their Property Data Collector Independence Requirements (PDCIR) on August 2, 2023. See [FHLMC Bulletin 2023-16](#). “Property Data Collector Independence Requirements” are effective for applications received on or after November 2, 2023. The Appraiser Independence Requirements were implemented prior to the recent modification. See the FHLMC version of Appraiser Independence requirements at <https://guide.freddie.com/app/guide/exhibit/35>.

FNMA published a comprehensive FAQ (updated August 2, 2023) regarding these policy statements at <https://selling-guide.fanniemae.com/Selling-Guide/Origination-thru-Closing/Subpart-B4-Underwriting-Property/Chapter-B4-1-Appraisal-Requirements/2522583501/FAQs-Appraiser-Independence-AIR-Mar-2022.htm>. This FAQ should answer a lot of questions about the Appraiser Independence Requirements.

FNMA is retiring some COVID related servicing policies. [Lender Letter LL-2023-07](#) lists some the policies that are ending:

- For evaluations on and after Nov. 1, 2023, removing the flexibility with regard to achieving Quality Right Party Contact (QRPC) and requiring QRPC as defined in D2-2-01, Achieving Quality Right Party Contact with a Borrower when evaluating a borrower for a COVID-19 payment deferral or a Fannie Mae Flex Modification for COVID-19 impacted borrowers.
- Updating the eligibility criteria for a COVID-19 payment deferral or a Fannie Mae Flex Modification for COVID-19 impacted borrowers to indicate that to be eligible
 - a mortgage loan must be reported with reason for delinquency code 022 in the Nov. 2023 delinquency reporting period (which is for Oct. 2023 activity) for a COVID-19 hardship identified prior to Nov. 1, 2023 and continue to be reported with code 022 until the date of evaluation; and
 - the evaluation must occur before Nov. 1, 2024.
- Requiring that the modification effective date for a Fannie Mae Flex Modification for COVID-19 impacted borrowers be on or before May 1, 2025.
- For evaluations on and after Nov. 1, 2024, the servicer must evaluate borrowers for a workout option in accordance with the workout hierarchy as described in the Servicing Guide.

FNMA COVID servicing policies that are retiring are listed in [Lender Letter LL-2023-03](#):

- use of reason for delinquency code 022, Energy-Environment Costs, as an available reason for delinquency code for new hardships identified on and after Nov. 1, 2023.
- the COVID-19 related forbearance plan flexibilities and reverting to the policy as specified in the Servicing Guide when evaluating the borrower for and offering a new forbearance plan or forbearance plan extension.

- the flexibility with regard to achieving QRPC when evaluating the borrower for a workout option prior to expiration of a COVID-19 related forbearance plan.

[FNMA Lender Letter LL-2023-04](#) revises FNMA’s payment deferral policy, effective July 1, 2023. The policies in this Lender Letter (originally published March 29, 2023) replace in its entirety Fannie Mae’s payment deferral requirements as reflected in Servicing Guide D2-3.2-05, Payment Deferral. This Lender Letter also provides updates to disaster payment deferral and other general policy updates not specific to payment deferral.

See [FHLMC Bulletin 2023-17](#) for FHLMC’s phased retirement of temporary servicing guidance related to COVID-19. This Bulletin also discusses:

- An increase in the reimbursable expense limits for certain expense codes
- An increase in approved Servicer reimbursement amounts for attorney fees
- A clarification related to reimbursements for filing costs
- Updates to the circumstances when the contract noncompliance and contract change compensatory fee is charged
- As announced in Bulletin 2022-19, each Large Non-Depository Institution must submit a capital and liquidity plan, annually on or before March 31, 2024, that describes how the Seller/Servicer intends to manage its capital and liquidity consistent with Freddie Mac requirements. These plans must be sent to CCRM_Mortgage_Bank@FreddieMac.com and, as a reminder, must at a minimum:
 - Include a description of the Seller/Servicer’s corporate governance over the capital and liquidity planning process, such as oversight responsibilities of Senior Management and its board of directors, and a discussion of the Seller/Servicer’s risk management framework
 - Describe processes to monitor and measure liquidity risks, such as business activity reports and financial forecast and cashflow projections
 - Contain capital and liquidity contingency funding plans and provide for testing and reaffirmation of such plans at least annually
 - Provide for an annual liquidity stress test, including a stress test of the value of Servicing Contract Rights in an adverse scenario developed by the Seller/Servicer, prescribed by Freddie Mac or both. The Servicing Contract Rights stress test may be conducted either in-house or using a third-party vendor.
 - Require notice to Freddie Mac within five (5) Business Days following any material change to or material deviation from the plan. During times of stress, material changes must require immediate notification within one (1) Business Day.
- “Claims Events” now include events related to bankruptcy and insolvency and notification of intent to disqualify or suspend a Seller or Servicer under Section 2301.3.
- Seller/Servicers are required to report Non-critical Privacy Events to Freddie Mac on a quarterly basis using new Exhibit 130, Non-critical Privacy Incident Reporting Template.

[FHLMC Bulletin 2023-16](#) announces (with effective dates):

- Requirements for installment agreements with the Internal Revenue Service (IRS) that are pending IRS approval – November 30, 2023

- Revised documentation requirements for income from alimony, child support and separate maintenance – November 30, 2023
- Updates to underwriting requirements for Manually Underwritten Mortgages pertaining to medical collections
- New eligible sources of funds and asset types for automated asset assessment with Loan Product Advisor using account data – October 1, 2023
- Enhancements to automated income assessment with Loan Product Advisor using tax data
- Updates related to ACE+ PDR
- Updated Appraiser Independence Requirements and the introduction of Property Data Collector Independence Requirements
- Additional Guide updates regarding credit fee caps, “claims events,” and Seller/Servicer eligibility – annual liquidity plan – March 31, 2024

Finally, see [VA Circular 26-23-12](#) and [Exhibit A](#) of this Circular for updates on how to assist VA borrowers following the termination of the National Emergency Concerning the COVID-19 Pandemic.

Mortgagor and Renter Disaster Assistance. [FHA INFO 2023-67](#) reminds mortgagees about its guidance for originating and/or servicing FHA-insured forward mortgages and Home Equity Conversion Mortgages (HECM) in locations in the U.S. and its territories where the President has declared a major disaster area. Both informal and formal forbearance may be offered to borrowers in a declared disaster area. There is an automatic 90-day foreclosure moratorium, and a 90 days moratorium extension, to commence foreclosure or evaluate the borrower for further loss mitigation in effect following a disaster declaration. This document also describes other servicer inspection duties and property rehabilitation options when a disaster is declared.

FHFA published a [Joint Statement](#) from Ginnie Mae, Federal Housing Administration, Federal Housing Finance Agency (Fannie Mae and Freddie Mac), USDA, and Department of Veterans Affairs affirming the disaster assistance available from HUD for FHA borrowers. The statement reminds GSE servicers that they may unilaterally offer 90 days forbearance to borrowers that the servicer believes are in a declared disaster area, and offer borrowers forbearance plans for periods up to 12 months.

USDA Rural Housing Development (RHD) loan servicers should declare a foreclosure moratorium of at least 180 days for borrowers impacted by a declared disaster. RHD servicers may place impacted borrowers in a forbearance plan of up to 12 months to provide payment relief. Additional details of RHD loan forbearance can be found in this [announcement](#) regarding the declared Maui disaster.

HUD certified housing counselors are available to provide guidance on the options that are available to renters.

SSN Verification Fee Increase. The Social Security Administration [announced](#) a fee increase for the Consent Based Social Security Number Verification (CBSV) service to \$2.25 per SSN verification transaction in advance of services. New customers will still be responsible for the

one-time \$5,000 enrollment fee. The verification transaction fee increase will go into effect on October 1, 2023.

SBA Loan Accommodation. SBA [announced](#) that it extended the Section 8(a) loan Business Development Bona Fide Place of Business (BFPOB) Requirement Moratorium through September 30, 2024. The moratorium was created in 2021 as a response to the COVID pandemic, and remote work conditions in the marketplace, so participants in the SBA's Section 8(a) Business Development Program could forgo the requirement of having an established physical presence in a particular location to be awarded any construction contract through the Section 8(a) Program. This modification to the Section 8(a) Business Development Program has made it easier for small and disadvantaged businesses to be eligible for Section 8(a) construction contract awards.

Guidance Under the Inflation Reduction Act. IRS issued [final rules](#) and [procedural guidance](#) for the Low-Income Communities Bonus Credit program under Section 48(e) of the Internal Revenue Code, and announced that the application process for this program would open by early fall. This program provides up to a 20% boost to the Investment Tax Credit for qualified solar or wind facilities in low-income communities.

IRS issued [Notice 2023-59](#) regarding the requirements for home energy audits for taxpayers that claim an Energy Efficient Home Improvement Credit. The credit amount is equal to 30% of the total amount that taxpayers pay during the year for:

- qualified energy efficiency improvements installed during the year,
- residential energy property expenditures, and
- home energy audits.

HUD updated guidance for Public Housing Authorities (PHAs) and owners of properties participating in HUD Multifamily Assisted Housing programs regarding the treatment of financial benefits received from participation in community solar energy programs or the presence of on-site solar facilities. The new guidance consolidates multiple previously issued policy documents, along with current guidance for HUD programs supporting solar, including:

- [New Community Solar Credits in Master Meter Buildings Guidance](#) for Public Housing Authorities, which augments existing PIH guidance in PIH Notice-2022-34-[Rate Reduction Incentive Guidance](#), [Treatment of Community Solar Credits on Tenant Utility Bills](#); PIH Notice 2022-32-[Small Rural Frozen Rolling Base Guidance](#); PIH Notice 2011-3-[Energy Performance Contract Guidance](#); and
- [New Housing Notice 2023-09](#) for Multifamily Assisted Housing property owners.

Reporting Digital Asset Transaction Capital Gains. IRS published a [proposed rule](#) requiring brokers to report backup withholding, and the basis for and the gross proceeds of, digital asset transactions. These proposed regulations would require brokers, including digital asset trading platforms, digital asset payment processors, and certain digital asset hosted wallets, to file information returns, and furnish payee statements, on dispositions of digital assets effected for customers in certain sale or exchange transactions. These proposed regulations would also require real estate reporting persons, who are treated as brokers with respect to reportable real estate transactions, to include on filed information returns and furnished payee statements the fair

market value of digital asset consideration received by real estate sellers in reportable real estate transactions. Additionally, these real estate reporting persons would also be required to file information returns and furnish payee statements with respect to real estate purchasers who use digital assets to acquire real estate in these transactions. Comments on the proposed rule are due 60 days after publication of the proposed rule in the Federal Register.

IRS Webinars. IRS provides a number of webinars for small businesses and tax professionals. Past webinars are linked at the [IRS Video Portal](#) include [Taxation of Nonresident Alien Individuals](#) and [Employee Retention Credit](#). [Future webinars](#) include Qualified Educational Assistance Programs, and Mortgage & Other Interest Expense Allocation & Apportionment for Individuals with Partnership Interests Form 1116 and Schedule K-3.

SEC Cyber Event Reporting Rule. The SEC adopted [rules](#) requiring registrants to disclose material cybersecurity incidents they experience, and to disclose on an annual basis material information regarding their cybersecurity risk management, strategy, and governance. The Commission also adopted rules requiring foreign private issuers to make comparable disclosures. The final rules will become effective 30 days following publication of the adopting release in the Federal Register. Revised Form 10-K and Form 20-F disclosures will be due beginning with annual reports for fiscal years ending on or after December 15, 2023. Revised Form 8-K and Form 6-K disclosures will be due beginning the later of 90 days after the date of publication in the Federal Register or December 18, 2023. Smaller reporting companies will have an additional 180 days before they must begin providing the Form 8-K disclosure. With respect to compliance with the structured data requirements, all registrants must tag disclosures required under the final rules in Inline XBRL beginning one year after initial compliance with the related disclosure requirement. See the [Fact Sheet](#) regarding these rules for further information.

FBI Asks for Help to Disrupt North Korea Movement of Stolen Bitcoin. On August 22, 2023, the FBI [announced](#) that the FBI tracked cryptocurrency stolen by North Korea's TraderTraitor-affiliated actors (also known as Lazarus Group and APT38). The FBI believes that North Korea may attempt to cash out the bitcoin worth more than \$40 million dollars. The FBI investigation found the TraderTraitor-affiliated actors moved approximately 1,580 Bitcoin from several cryptocurrency heists and are currently holding those funds in six bitcoin addresses, which the FBI identified. Private sector entities should examine the blockchain data associated with these addresses and be vigilant in guarding against transactions directly with, or derived from, these addresses.

Model Non-Bank Data Security Law. CSBS published a Model Nonbank Data Security Law largely based on the FTC Safeguards Rule. The model law requires non-bank financial institutions to develop, implement, and maintain a comprehensive Information Security Program that is written in one or more readily accessible parts and contains administrative, technical, and physical safeguards that are appropriate to the size and complexity, the nature and scope of the institution's activities, and the sensitivity of any Customer Information at issue. There are ten elements that must be included in a nonbank financial institution's information security program, including:

- Designate a Qualified Individual to implement and supervise the information security program.
- Conduct a risk assessment.
- Design and implement safeguards to control the risks identified through the risk assessment.
- Regularly monitor and test the effectiveness of the safeguards.
- Train staff.
- Monitor service providers.
- Keep the information security program current.
- Create a written incident response plan.
- Require the Qualified Individual to report to your Board of Directors.
- Create a written business continuity and disaster recovery plan.

The model law and resources to implement the law include:

- [CSBS Model Data Security Law](#)
- [CSBS Model Data Security Law Alternative Language](#)
- [CSBS Model Data Security Law Guidance](#)
- [CSBS Model Data Security Law Summary](#)
- [Using the CSBS Nonbank Model Data Security Law](#)
- [Overview of the Two Versions of the Model Data Security Law](#)
- [CSBS Model Data Security Law Compliance Checklist](#)
- [FTC Safeguards Rule Compliance Checklist](#)
- [Comparison of Bank vs Nonbank Data Breach Notifications](#)

Odds and Ends

Student Loan Relief Saga. The 5th Circuit Court of Appeals issued an [injunction](#) against the latest Department of Education plan to offer student loan relief to students defrauded by their education institution. This injunction should not impact the automatic discharges for 804,000 student borrowers who qualify for \$39 billion in student loan relief as a result of fixes to income-driven repayment (IDR) plans (614,000 students will receive a full discharge of their student loans). The [debt relief for Michigan students](#) is estimated at \$1.267 Billion.

A Federal District Court in Michigan [dismissed](#) a lawsuit challenging a Department of Education a “One Time Account Adjustment,” for federal-student-loan borrowers that would provide qualifying borrowers with credit toward student loan forgiveness for periods of prior forbearance. The Court found that that the plaintiffs (the Cato Institute and the Mackinaw Center for Public Policy) demonstrated no harm from the adjustment and, therefore, lacked standing to sue.

Articles of Interest. The following articles and actions may be of interest to FICC members: [How Mexican Narcos use remittances to wire U.S. drug profits home.](#) “Drug cartels are using remittances – money transfers favored by migrant workers – to send illicit earnings back to Mexico. They’re hiring armies of people on both sides of the border to move small sums that are difficult to trace to narcotics kingpins, authorities say. Reuters visited Sinaloa, where some residents admitted to cashing remittances for the Sinaloa Cartel.”

[Haggling With Hackers: Surprising Lessons From 50 Negotiations with Ransomware Gangs.](#)

“Ransomware negotiations are usually shrouded in secrecy, but some security experts think that we should make them public and analyze them to glean insights. So that’s exactly what we did.”

[Bungalows, cars seized in Singapore's billion-dollar swoop on money laundering.](#)

“SINGAPORE, Aug 17 (Reuters) - Singapore’s police said they have seized S\$1 billion (\$734.32 million) in assets from a gang of foreigners laundering proceeds from organised crime, including plush bungalows in the most sought-after addresses, bundles of cash, luxury cars, jewellery, handbags and gold bars.”

[Executive Order on Addressing United States Investments in Certain National Security Technologies and Products in Countries of Concern.](#)

“...countries of concern are engaged in comprehensive, long-term strategies that direct, facilitate, or otherwise support advancements in sensitive technologies and products that are critical to such countries’ military, intelligence, surveillance, or cyber-enabled capabilities...” [A]dvancement by countries of concern in sensitive technologies and products critical for the military, intelligence, surveillance, or cyber-enabled capabilities of such countries constitutes an unusual and extraordinary threat to the national security of the United States, which has its source in whole or substantial part outside the United States, and that certain United States investments risk exacerbating this threat.”

[Report: Ransomware Command-and-Control Providers Unmasked by Halcyon Researchers.](#)

“In this report, titled “Cloudzy with a Chance of Ransomware: Unmasking Command-and-Control Providers (C2Ps),” Halcyon demonstrates a unique method for identifying C2P entities that can be used to forecast the precursors to major ransomware campaigns and other advanced attacks significantly “left of boom.” Halcyon also identifies two new, previously undisclosed ransomware affiliates Halcyon tracks as Ghost Clown and Space Kook that currently deploy BlackBasta and Royal, respectively.”

[Jackson Hole Economic Policy Symposium: Reassessing Constraints on the Economy and Policy](#)

The Federal Reserve Bank of Kansas City hosted dozens of central bankers, policymakers, academics and economists at its annual economic policy symposium. Their papers and statements may be downloaded from this webpage.

Other Fines and Enforcement Actions:

- On July 18, 2023, the FRB issued a Cease and Desist order to Farmington State Bank and its parent holding company for changing its business plan without notice to and consent from the FRB. The Bank entered into a non-binding memorandum of understanding with a third party whereby the Bank committed to “work with” the third party “to design the necessary IT infrastructure” to facilitate the third party’s issuance of stablecoins to the public in exchange for receipt of 50% of mint and burn fees on certain stablecoins, and took material steps to implement that memorandum of understanding.
- On July 24, 2023, the FRB fined UBS Group AG \$268,494,109.20 for misconduct by Credit Suisse, which UBS acquired in June 2023. The misconduct involved Credit Suisse's unsafe and unsound counterparty credit risk management practices with its former counterparty, Archegos Capital Management LP, that resulted in \$5.5 billion in

losses. This fine is in addition to the concurrent Swiss Prudential Regulation Authority fine of £87,082,000 (about \$119 million).

- On July 25, 2023, the OCC fined American Express National Bank \$15 million for insufficient governance and oversight of third-party affiliate call monitoring controls and appropriate mechanisms to document and track customer complaints. Additionally, the bank failed to collect necessary consumer information and properly maintain and produce records to show compliance with Customer Identification Program regulations.
- On July 28, 2023, the FCC proposed a fine of \$20 million against Q Link Wireless LLC and Hello Mobile Telecom LLC for apparent violations of FCC rules that require carriers to authenticate customers' identity before providing online access to Customer Proprietary Network Information.
- On August 1, 2023, the SEC charged Richard Heart (aka Richard Schueler) and three unincorporated entities that he controls, Hex, PulseChain, and PulseX, with conducting unregistered offerings of crypto asset securities that raised more than \$1 billion in crypto assets from investors. The SEC also charged Heart and PulseChain with fraud for misappropriating at least \$12 million of offering proceeds to purchase luxury goods, including sports cars, watches, and a 555-carat black diamond.
- On August 2, 2023, the CFPB sued auto-loan servicer USASF Servicing for wrongfully disabling borrowers' vehicles, improperly repossessing vehicles, double-billing borrowers for insurance premiums, and failing to return millions of dollars in refunds to consumers. The CFPB is seeking to obtain redress for consumers and civil money penalties, and stop any future violations.
- On August 3, 2023, the SEC obtained a temporary asset freeze, restraining order, and other emergency relief against Digital Licensing Inc., a Draper, Utah based entity doing business as "DEBT Box," as well as the company's four principals and 13 other defendants in connection with a fraudulent scheme to sell crypto asset securities to hundreds of U.S. investors. DEBT Box raised approximately \$50 million and unspecified amounts of Bitcoin and Ether from investors.
- On August 3, 2023, the FCC fined Sumco Panama SA, Sumco Panama USA, Virtual Telecom kft, Virtual Telecom Inc., Davis Telecom Inc., Geist Telecom LLC, Fugle Telecom LLC, Tech Direct LLC, Mobi Telecom LLC, and Posting Express Inc. (collectively, the Enterprise or Entities) \$299,997,000, jointly and severally, for placing over five billion auto warranty robocalls to consumers between January 2021 and March 2021, in violation of the Telephone Consumer Protection Act (TCPA) and Truth in Caller ID Act. These enterprises devised and executed a complex auto warranty robocall sales lead generation scheme, which placed spoofed calls to consumers without their consent.
- On August 4, 2023, the FDIC demanded that Unbanked, Inc. of Alpharetta, Georgia, as well as certain of the company's officers, cease and desist from making false and misleading statements about FDIC deposit insurance, and to immediately correct these statements. Unbanked made false representations on its website, in promotional materials, and on social media platforms stating or suggesting its crypto-related products and services are FDIC insured. These representations included claims that Unbanked offered FDIC insured "crypto accounts," without any disclaimer that cryptocurrency is not FDIC insured or guaranteed.
- On August 8, 2023, the SEC announced that it fined several financial institutions for failing to maintain and preserve electronic communications:

- Wells Fargo Securities, LLC together with Wells Fargo Clearing Services, LLC and Wells Fargo Advisors Financial Network, LLC agreed to pay a \$125 million penalty;
- BNP Paribas Securities Corp. and SG Americas Securities, LLC have each agreed to pay penalties of \$35 million;
- BMO Capital Markets Corp. and Mizuho Securities USA LLC have each agreed to pay penalties of \$25 million;
- Houlihan Lokey Capital, Inc. has agreed to pay a \$15 million penalty;
- Moelis & Company LLC and Wedbush Securities Inc. have each agreed to pay penalties of \$10 million; and
- SMBC Nikko Securities America, Inc. has agreed to pay a \$9 million penalty.

To date, the SEC fined 30 financial institutions a total of \$1.5 Billion for failing to maintain and preserve electronic communications.

- On August 10, 2023, the SEC fined Bittrex \$5.6 million, and ordered disgorgement of \$14.4 million, with prejudgment interest of \$4 million, for acting as an unregistered broker, exchange, and clearing agency by providing services to U.S. investors in connection with crypto assets that the SEC’s alleges were offered and sold as unregistered securities.
- On August 10, 2023, the SEC fined Colombian conglomerate Grupo Aval Acciones y Valores S.A., aka Grupo Aval S.A., and its bank subsidiary, Corporación Financiera Colombiana S.A. (Corficolombiana), \$40 million for violating the Foreign Corrupt Practices Act (FCPA) by bribing Columbian officials to win an extension to a contract for a highway infrastructure project.
- On August 14, 2023, the FTC fined Experian Consumer Services \$650,000 for sending unsolicited email to consumers without offering them a way to opt out of such messages, as required under the CAN-SPAM Act. Experian included a notice at the bottom of these emails informing recipients that they are receiving the messages because they “contain important information about your account.” The FTC charges that the emails are not related to consumers’ accounts, and instead market or promote products and services. Therefore, the emails must provide consumers with a way to unsubscribe from receiving future messages.
- On August 14, 2023, USDOJ announced that UBS AG and its US affiliates were fined \$1,435,000,000 for defrauding investors in connection with the sale of 40 RMBS issued in 2006 and 2007. USDOJ has collected more than \$36 billion in civil penalties from 18 major domestic and foreign banks, originators, and rating agencies for their alleged conduct in connection with mortgages securitized in failed RMBS leading up to the 2008 financial crisis.
- On August 14, 2023, the FRB fined Regions Bank \$2,945,500 because its new loan servicing platform and third-party loan servicers did not effectively monitor a significant number of home equity loans and home equity lines of credit subject to the Flood Act for compliance with Regulation H over a period exceeding one year.
- On August 17, 2023, the CFPB fined Freedom Mortgage Corporation \$1.75 million and fined Realty Connect USA Long Island \$200,000 for paying and accepting disguised kickbacks for referrals to Freedom Mortgage for residential loans. Kickbacks were provided by linking the distribution of entertainment tickets, marketing service agreements, gifts, parties, phone apps, etc., to referrals received from real estate brokers.

Realty Connect failed to provide the services required by its MSAs with Freedom Mortgage, but kept the payments it received. Freedom Mortgage also paid for property information subscription services that its referral sources utilized.

- On August 22, 2023, two former precious metals traders at JPMorgan Chase & Co. (Gregg Smith and Michael Nowak) were [sentenced](#) to prison terms and fined for engaging in fraud, attempted price manipulation, and spoofing as part of a market manipulation scheme that spanned over eight years, involved tens of thousands of unlawful trading sequences, and resulted in over \$10 million in losses to market participants. JPMorgan entered into a three-year deferred prosecution agreement in September 2020 through which it paid more than \$920 million in fines, criminal disgorgement, and victim compensation.
- On August 22, 2023, the CFPB sued Heights Finance Holding Company, formerly known as Southern Management Corporation, a high-cost installment lender, as well as several of Heights's subsidiaries, for illegal loan-churning practices that harvested hundreds of millions in loan costs and fees. The CFPB alleges that the company – which operates under a variety of trade names, including Covington Credit, Southern Finance, and Quick Credit – identifies borrowers who are struggling to repay their existing loans, and then aggressively pushes them to refinance. Borrowers become trapped in the loan churning scheme and often are forced to refinance multiple times.
- On August 23, 2023, USDOJ announced a coordinated, nationwide enforcement action to combat COVID government assistance fraud, which included 718 enforcement actions – including federal criminal charges against 371 defendants – for offenses related to over \$836 million in alleged COVID fraud. Deputy Attorney General Lisa O. Monaco [stated](#) that USDOJ already brought criminal charges against nearly 3,200 defendants with alleged losses exceeding nearly \$1.7 billion. There have been civil investigations into more than 3,000 individuals and entities for alleged misconduct in connection with pandemic relief loans totaling more than \$7 billion.
- On August 23, 2023, USDOJ announced an indictment against Roman Storm, 34, of Auburn, Washington, and Roman Semenov, 49, of Russia, for creating, operating, and promoting Tornado Cash, a cryptocurrency mixer that facilitated more than \$1 billion in money laundering transactions, and laundered hundreds of millions of dollars for the Lazarus Group, a sanctioned North Korean cybercrime organization.
- The Wall Street Journal [reported](#) on August 24, 2023, that Morgan Stanley agreed to pay £5.41 million (about \$6.82 million) to the U.K.'s energy markets regulator to settle an investigation over its traders' use of banned messaging apps that breached requirements to retain written communications. The U.K. fine comes after the bank faced similar scrutiny by U.S. regulators. Morgan Stanley last September agreed to pay penalties totaling about \$200 million to the SEC and the CFTC over admissions it violated record keeping rules.
- On August 25, 2023, the SEC fined Wells Fargo Clearing Services LLC and Wells Fargo Advisors Financial Network LLC \$35 million for overcharging more than 10,900 investment advisory accounts more than \$26.8 million in advisory fees. Wells Fargo employees negotiated reduced fees for these clients, but processing employees did not enter the reduced fees into Wells Fargo's billing system.