

FICC TELEBRIEFING

February 25 and 26, 2025

Fair Lending Concerns from the Federal Reserve

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I. The Federal Reserve System's Top-Issued Fair Lending Matters Requiring Immediate Attention and Matters Requiring Attention.

CONSUMER COMPLIANCE OUTLOOK®

A FEDERAL RESERVE SYSTEM PUBLICATION FOCUSING ON CONSUMER COMPLIANCE TOPICS

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THE FEDERAL RESERVE SYSTEM'S TOP-ISSUED FAIR LENDING MATTERS REQUIRING IMMEDIATE ATTENTION AND MATTERS REQUIRING ATTENTION

BY SCOTT SONBUCHNER, SENIOR EXAMINER, FEDERAL RESERVE BANK OF MINNEAPOLIS

Since 2023, *Consumer Compliance Outlook (CCO)* has been publishing data-driven articles on top violations and complaints for institutions the Federal Reserve supervises. In this issue, we are publishing an article on a third supervisory data point: top-issued Matters Requiring Immediate Attention (MRIAs) or Matters Requiring Attention (MRAs), which we refer to as *matters*. This article discusses the top-issued fair lending matters. We believe data-driven articles can help institutions assess compliance risk in their operations by identifying areas where other institutions faced challenges, how they remediated those challenges, and ways to mitigate risks.

MRIAs AND MRAs

The Federal Reserve System is the primary federal regulator for state member banks (SMBs). Communicating supervisory findings to management and the board of directors of a regulated institution is an important aspect of supervision. The report of examination is the primary way bank supervisors communicate findings. But when examiners find systemic weaknesses in an institution's compliance management system or systemic violations of consumer laws that raise significant supervisory concerns, they can issue an MRIA or MRA or take other formal or informal enforcement actions to ensure the board and management are aware of the concerns and promptly undertake corrective actions.

MRIAs

As discussed in Federal Reserve Supervision and Regulation (SR) letter 13-13/Consumer Affairs (CA) letter 13-10, "Supervisory Considerations for the Communication of Supervisory Findings,"¹ MRIAs can arise from an examination, an inspection, or any other supervisory activity that raises major concerns, including:

- significant noncompliance with applicable laws or regulations;
- practices that can cause significant consumer harm;
- repeat criticisms on which the institution is not taking action or to which it is paying insufficient attention; and

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THE FEDERAL RESERVE SYSTEM'S TOP-ISSUED FAIR LENDING MATTERS REQUIRING IMMEDIATE ATTENTION AND MATTERS REQUIRING ATTENTION

- issues that could pose significant risk to the safety and soundness of the banking organization.

MRIs must be resolved as quickly as possible. But for “heightened safety-and-soundness or consumer compliance risk,”² they must be addressed immediately. The institution must also respond in writing to the MRI indicating its plan for corrective action.

MRAs

MRAs raise important issues but do not pose an immediate risk and are expected to be addressed in a reasonable period of time. “The key distinction between MRIs and MRAs is the nature and severity of matters requiring corrective action, as well as the immediacy with which the banking organization must begin and complete corrective action.”³

FAIR LENDING MRIs/MRAs

The Federal Reserve evaluates SMBs for fair lending risk at every consumer compliance examination. For SMBs with less than \$10 billion in assets, the Federal Reserve examines for compliance with both the Equal Credit Opportunity Act (ECOA) and the Fair Housing Act (FHA). For institutions over \$10 billion in assets, the Federal Reserve examines for compliance with the FHA, while the Consumer Financial Protection Bureau (CFPB) examines for compliance with ECOA, as required by the Dodd-Frank Act.⁴

ECOA prohibits discrimination in consumer and commercial credit transactions on the prohibited bases of race, color, religion, national origin, sex, marital status, age, the receipt of income from a public assistance program, and the good faith exercise of rights under the Consumer Credit Protection Act.⁵ The FHA prohibits discrimination in residential housing transactions on the prohibited bases of race, color, religion, sex, handicap, familial status, or national origin.⁶

TOP FAIR LENDING MRIs/MRAs FOR STATE MEMBER BANKS IN 2022

Matter #1 – Failing to Conduct Fair Lending Risk Assessments

Supervisory Expectation

An institution’s overall fair lending risk management program should be commensurate with the size, complexity, and

fair lending risk profile of its lending. Supervisors expect institutions with heightened fair lending risk to conduct a fair lending risk assessment to ensure the risk is being appropriately measured and mitigated. For example, if a bank with many majority-minority census tracts⁷ in its assessment area is not conducting a fair lending risk assessment, its risk of fair lending violations increases.

Root Cause

Some institutions with heightened fair lending risks relied on their compliance risk assessments to measure fair lending risk. However, when an institution has elevated fair lending risk, an overall compliance risk assessment can be inadequate to measure fair lending risk because it is more general and less focused and nuanced than a fair lending risk assessment and may fail to identify risks that would have been identified in a fair lending risk assessment.

Sound Practice

Institutions with heightened fair lending risk can mitigate this risk by implementing fair lending risk assessments. These assessments are typically conducted annually, but could be updated following a major fair lending event, such as a merger or acquisition that added majority-minority census tracts to the lender’s assessment area. The assessment should be tailored to an institution’s fair lending risk profile and assess its inherent risks, controls to mitigate those risks, and the resulting residual risk. Inherent risk arises from the general conditions or the environment in which the institution operates. Factors that can inform an inherent risk assessment include:

- supervisory history (past violations and concerns);
- loan portfolio (especially the volume for each loan product);
- structure and management (decentralization and discretion); and
- markets (significant minority populations).

Examiners use the risk factors in the *Interagency Fair Lending Examination Procedures* to scope out fair lending examinations, which may include evaluating risk for:⁸

- marketing;
- overt statements or policies;

“ The goal of a risk assessment is to identify and mitigate the residual risk that remains after identifying fair lending risk *and* the controls implemented to mitigate the risks. ”

- steering;
- pricing;
- underwriting;
- redlining; and
- the compliance management system.

Fair lending controls should be considered in conducting the fair lending risk assessment. The goal of a risk assessment is to identify and mitigate the residual risk that remains after identifying fair lending risk *and* the controls implemented to mitigate the risks. For example, if an institution was cited in a report of examination for failing to adequately explain the reason for taking adverse action, and it responded by requiring a second review of all notices, the risk assessment would find this fair lending risk has been mitigated. Again, the number and formality of controls vary based on size, complexity, and fair lending risk profile, but may include some combination of the following illustrative (but not exhaustive) list of controls:

- policies and training that set expectations of fair lending;
- controls to limit loan officer discretion;
- objective standards for pricing and underwriting;
- requirements to document decisions and exceptions;
- second reviews for denials; and
- procedures that escalate findings to the board and senior management.

After identifying and evaluating each control's effectiveness relative to the inherent risks, the risk assessment can analyze

the residual risk for each identified fair lending risk. If the risk assessment finds more than minimal inherent risk, the compliance officer may consider performing additional analysis, such as comparative file reviews. In most instances, the expectation is that the risk assessment would be updated and approved annually by the board of directors.

Matter #2 – Failing to Conduct Fair Lending Training

Supervisory Expectation

Effective, complete, and recurring training is an essential part of a fair lending compliance management program. For example, if a loan officer is aware that it can require a guarantor or cosigner when an applicant does not meet underwriting standards, but is not aware that it cannot require that it be the applicant's spouse,⁹ the risk of a spousal signature violation under Regulation B increases.

Additionally, like all legal compliance risks, fair lending risks can change over time. An effective change management process includes properly training staff regarding the relevant change.

Root Cause

Compliance departments can become complacent and overlook the benefits of recurring fair lending training, especially for board members and management.

Sound Practice

Banks can provide recurring fair lending training to all lending staff, management, and the board of directors. The training should be appropriate and tailored to the position receiving the training. Training can help lending staff to understand prohibited activities, management to be aware of fair lending risk, and the board to set the correct tone. Because training is intended to emphasize values and keep risks top of mind, fair lending training is most effective when it is recurring, often annually. Training provides banks with an opportunity to promote their culture and set expectations about appropriate conduct.

Matter #3 – Failing to Gross Up Nontaxable Income When Underwriting Is Based on Gross Income

Legal and Regulatory Requirement

ECOA and the FHA prohibit discrimination in all aspects of the transaction, including when evaluating applicants for credit. Lenders' underwriting systems typically analyze either an applicant's *gross* or *net* income. If a lender's system analyzes *gross* income and fails to gross up the income when the applicant's income is nontaxable, the practice raises fair

lending risk. It may result in discounting an applicant's income on a prohibited basis,¹⁰ and could also result in discriminatory loan denials due to insufficient income. Suppose, for example, a lender will not approve mortgage loans for applicants with a debt-to-income ratio greater than 40 percent, and the lender analyzes gross income and does not gross up nontaxable income when computing the ratio. An applicant's nontaxable, monthly disability income is \$3,000, his monthly debt payments total \$1,500, and his effective tax rate is 25 percent, showing a debt-to-income ratio of 50 percent. This applicant would be denied a mortgage loan using this lender's standards. But if the lender grossed up his income of \$3,000 based on his 25 percent

Matter #4 – Risk Monitoring and Management Information System (Exception Monitoring)

Supervisory Expectation

Loan officer discretion can increase the risk of a fair lending violation. It is therefore important to implement controls to mitigate this risk. If loan officers have discretion, it should be monitored to ensure it is not exercised on a prohibited basis — especially in pricing or underwriting. Risk monitoring and reporting provide the board and management with the information needed to identify and evaluate fair lending risks.

“ Loan officer discretion can increase the risk of a fair lending violation. It is therefore important to implement controls to mitigate this risk. ”

tax rate, his qualifying income would be considered to be \$4,000 and his debt-to-income ratio would be 37.5 percent. This applicant would have been approved under the bank's policy but for the failure to gross up his income. A policy of not grossing up nontaxable income, such as nontaxed Social Security Disability Income, may result in a finding of illegal discrimination, as receipt of public assistance income is a protected characteristic under ECOA, as is disability under the FHA.

Root Cause

The primary reason banks fail to gross up nontaxable income is that they do not have policies and procedures in place that require underwriters to gross up nontaxable income when underwriting is based on gross income. Banks have been especially likely to maintain this policy or practice of calculating income for products not subject to investor standards that require gross-up of income, such as the standards of Fannie Mae and Freddie Mac.

Sound Practice

Compliance departments can review loan policies to see if they properly address this issue and, if not, adjust the policies. In this example, lenders had to develop procedures to ensure that nontaxable income is consistently grossed up to an “adjusted gross income” for the initial evaluation of debt-to-income and used for the underwriting decision for all underwriting that relies on gross income.

Root Cause

Institutions failed to implement a control to ensure loan officers' discretionary credit decisions do not violate fair lending laws. While having clear, written, objective pricing and underwriting criteria helps to limit lender discretion, allowing loan officers to make exceptions to those rules can increase fair lending risk. The fair lending risk can become a fair lending violation if those exceptions are applied unevenly, as the bank may be disproportionately providing accommodations, exceptions, or more favorable terms and conditions on a prohibited basis. A control is necessary to ensure the exercise of the discretion complies with fair lending laws.

Sound Practices

Banks can employ different strategies for mitigating the risk of loan officer exceptions to pricing and underwriting standards. One option is to eliminate discretion by stating in the loan policy that exceptions are not permitted. While this approach benefits from its simplicity, some banks find the solution does not fit with broader business strategies. Alternatively, banks that allow loan officers to retain discretion to make exceptions to policy can mitigate that risk by tracking and maintaining oversight over how loan officers use those exceptions. In this case, sound practices include establishing a written, clear policy setting forth reasons for exceptions, specifying the factors for which an exception is permitted, and retaining documentation. Another sound practice is to maintain oversight over loan officers' use of

discretion by tracking and monitoring exceptions (including frequency and amount/magnitude) to confirm that the exceptions do not result in potential disparities on a prohibited basis. Finally, lenders can train loan officers on how to exercise their discretion without violating fair lending laws.

CONCLUDING REMARKS

Fair lending MRIs and MRAs are among the most common matters issued throughout the Federal Reserve System. While

banks are responsible for all aspects of their fair lending compliance management program, compliance officers may benefit from reviewing these more frequently issued matters and comparing them to their current practices. Banks should raise specific fair lending issues and questions with their primary regulator. ■

ENDNOTES*

- ¹ SR 13-13/CA 13-10, "Supervisory Considerations for the Communication of Supervisory Findings" ("Supervisory Communications") (June 17, 2013).
- ² Supervisory Communications at p. 3.
- ³ Federal Reserve Board Commercial Bank Examination Manual at p. 21 (October 2023).
- ⁴ 12 U.S.C. §5515. The CFPB enforces "federal consumer financial laws," as defined in the Dodd-Frank Act, which does not include the FHA. See 12 U.S.C. §5481(14).
- ⁵ 15 U.S.C. §1691(a); 12 C.F.R. §1002.4(a).
- ⁶ 42 U.S.C. §3605(a); 24 C.F.R. Part 100.
- ⁷ In a fair lending review in a consumer compliance examination, unless otherwise noted, "majority-minority census tracts" are defined as census tracts that are more than 50 percent Hispanic and African-American.
- ⁸ *Interagency Fair Lending Examination Procedures* (2009).
- ⁹ 12 C.F.R. §1002.7(d)(5); "If, under a creditor's standards of creditworthiness, the personal liability of an additional party is necessary to support the credit requested, a creditor may request a cosigner, guarantor, endorser, or similar party. The applicant's spouse may serve as an additional party, *but the creditor shall not require that the spouse be the additional party.*" Emphasis added.
- ¹⁰ 12 C.F.R. §1002.6(b)(5); "A creditor shall not discount or exclude from consideration the income of an applicant or the spouse of an applicant because of a prohibited basis."

* Note: The links for the references listed in the Endnotes are available on the *Consumer Compliance Outlook* website at consumercomplianceoutlook.org.

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II. Top Federal Reserve System Compliance Violations in 2023 Under the Equal Credit Opportunity Act.

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TOP FEDERAL RESERVE SYSTEM COMPLIANCE VIOLATIONS IN 2023 UNDER THE EQUAL CREDIT OPPORTUNITY ACT

BY CONSUMER COMPLIANCE OUTLOOK STAFF

The Equal Credit Opportunity Act (ECOA), as implemented by Regulation B, requires creditors to notify consumers and businesses applying for credit about the action taken on their applications within specified time periods. If adverse action¹ is taken, the creditor must provide an adverse action notice (AAN) disclosing the reasons for taking adverse action, the key factors affecting an applicant's credit score if it was used in the credit decision, and the contact information for the lender's primary federal regulator.² An AAN provides transparency to applicants about the credit underwriting process and helps protect them against potential credit discrimination by requiring creditors to specify the reasons for taking adverse action and the contact information for the creditor's federal regulator if the applicant believes discrimination occurred and wants to file a complaint.

Violations of the AAN requirements were among the Federal Reserve's top-cited compliance violations in 2023. This article reviews the violations and sound practices to mitigate risks. The format for common violations articles is to list the regulatory requirements (either by quoting the text or by summarizing it) and then discuss the specific violations, root causes, and sound practices.

REGULATORY REQUIREMENTS

Adverse action definition: 12 C.F.R. §1002.2(c)(1)

- (i) A refusal to grant credit in substantially the amount or on substantially the terms requested in an application unless the creditor makes a counteroffer (to grant credit in a different amount or on other terms) and the applicant uses or expressly accepts the credit offered;
- (ii) A termination of an account or an unfavorable change in the terms of an account that does not affect all or substantially all of a class of the creditor's accounts; or
- (iii) A refusal to increase the amount of credit available to an applicant who has made an application for an increase.

Time periods for notifying an applicant of the action taken:

12 C.F.R. §1002.9(a)(1)

- 30 days after receiving a completed application;
- 30 days after taking an adverse action on an incomplete application, unless notice is provided under §1002.9(c);
- 30 days after taking adverse action on an existing account; or
- 90 days after notifying the applicant of a counteroffer if the applicant does not expressly accept or use the credit offered.

A common violation was failing to provide an AAN within 30 days after receiving a completed application on which adverse action was taken.

ROOT CAUSES

For consumer credit, a creditor has 30 days after receiving a completed application to notify the applicant in writing of the credit decision. In some cases, violations occurred because staff members did not understand the regulatory requirements of sending a *written* AAN. Staff believed oral notification complied, where they had notified applicants by telephone and did not send a written AAN. In other cases, staff did not understand the timing requirements. This reflected inadequate training on AAN requirements.

Examiners also noted weaknesses in the monitoring and audit functions, including internal testing or quality control, that

should have provided a second line of defense to recognize that loan staff failed to send timely, written AANs.

SOUND PRACTICES TO MITIGATE COMPLIANCE RISKS

Most of the violations discussed occurred because of inadequate oversight by management and a lack of appropriate employee training. The table lists compliance practices that examiners have observed and recommend.

CONCLUDING REMARKS

This article discusses common ECOA violations and sound practices to mitigate risks related to AANs. Specific issues and questions should be raised with your primary regulator. ■

TABLE: Sound Compliance Practices

Board and Senior Management Oversight	<ul style="list-style-type: none"> Review management information systems, including audit reports, to stay apprised of systemic issues and respond appropriately
Internal Controls	<ul style="list-style-type: none"> Create a ticker for each loan application to remind staff of the deadline to notify the applicant of the action taken on a completed loan application Review controls to ensure they are working to flag the deadline for sending an AAN
Consumer Complaints	<ul style="list-style-type: none"> Review complaints received by the institution or by the Federal Reserve Consumer Help complaint system for possible internal control weaknesses for the issues noted in this article, adjusting and strengthening processes as needed to ensure compliance
Training	<ul style="list-style-type: none"> Conduct regular training on the notice requirements under §1002.9 of Regulation B Identify and train for pain points, such as the effect of incomplete applications or counteroffers on AAN requirements Include training when regulatory changes or procedural weaknesses are noted Provide flowcharts and worksheets for staff
Monitoring and Audit	<ul style="list-style-type: none"> Conduct frequent audits of loans Validate that all policies and procedures are applied correctly
Policies and Procedures	<ul style="list-style-type: none"> Implement detailed policies and procedures to ensure a consistent and repeatable process

ENDNOTES

¹ *Adverse action* is defined in ECOA, 15 U.S.C. §1691(d)(6), and in Regulation B, 12 C.F.R. §1002.2(c).

² 12 C.F.R. §1002.9(a)(2) and (b)(2).

III. Top-Cited Federal Reserve System Compliance Violations in 2023 Under the Truth in Lending Act for the TILA RESPA Integrated Disclosure.

TOP-CITED FEDERAL RESERVE SYSTEM COMPLIANCE VIOLATIONS IN 2023 UNDER THE TRUTH IN LENDING ACT FOR THE TILA RESPA INTEGRATED DISCLOSURE

BY CONSUMER COMPLIANCE OUTLOOK STAFF

Before the Dodd–Frank Act was enacted in 2010, consumers applying for most closed-end, residential mortgage loans received disclosures under both the Truth in Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA), of loan and settlement costs, respectively. But the disclosures overlapped to a degree and risked overloading the consumer with pages of complex information. To address this issue, the Dodd–Frank Act directed the Consumer Financial Protection Bureau (CFPB) to combine the required TILA and RESPA disclosures into a single disclosure, commonly known as the TILA RESPA integrated disclosure (TRID),¹ and to conduct consumer testing of the disclosure to improve comprehension.² The CFPB’s final rule implementing the TRID, which became effective in October 2015, requires creditors to provide a Loan Estimate within three business days after receiving an application³ and a Closing Disclosure at least three business days prior to consummation.⁴

A review of data from Federal Reserve compliance examinations showed that violations of the Closing Disclosure requirements as set out in Regulation Z, TILA’s implementing regulation, were among the top-cited violations in 2023. Those violations of Regulation Z involved understating the finance charge for discounted, adjustable rate mortgages (ARMs) and incorrectly listing the names of the settlement service providers.

The format for *Consumer Compliance Outlook* common violation articles is to first summarize the regulatory requirements and then discuss the violations, root causes, and sound practices that can help prevent violations.

REGULATORY REQUIREMENTS

Disclosure of finance charge: 12 C.F.R. §1026.38(o)(2)
Requires disclosure of the “Finance Charge,” using that term and expressed as a dollar amount, and the following statement: “The dollar amount the loan will cost you.” The disclosed finance charge and other disclosures affected by it, including the amount financed and the annual percentage rate (APR), will be treated as accurate if the finance charge: (i) is understated by no more than \$100; or (ii) is greater than the amount required to be disclosed.

UNDERSTATED FINANCE CHARGE FOR ARM LOANS

Examiners observed the disclosure of understated finance charges for discounted ARM loans in excess of the finance charge \$100 tolerance. A discounted ARM loan provides the borrower with a lower interest rate for a period of time, after which a variable rate applies, typically based on an index and a margin. For these loans, the disclosures must reflect a composite APR based on the initial rate for as long as it is charged and, for the remainder of the term, the rate that would have been applied using the index or formula at the time of consummation.⁵ Errors occurred because the fully indexed interest rate was not included in the finance charge determinations. The understated finance charge also affected the accuracy of the APR of some of the loans because the APR is calculated using the finance charge.⁶

The root causes included an issue with the software used to prepare the disclosures, modest weaknesses in training because staff was unaware of the proper calculation steps, and weaknesses in internal controls that failed to flag miscalculations in the loan software.

REGULATORY REQUIREMENTS

Disclosure of settlement services: 12 C.F.R. §1026.38(f)(2)

Requires disclosure of settlement services that a borrower did not shop for and provided by persons other than the creditor or a mortgage broker. These services must be itemized with their corresponding costs and the name of the person receiving final payment. A total of all itemized amounts designated borrower-paid at or before closing must also be disclosed. Examples of services that cannot be shopped for are: appraisal fee, appraisal management company fee, credit report fee, flood determination fee, government funding fee, homeowners association certification fee, lender’s attorney fee, and tax status research fee.

LISTING INCORRECT INFORMATION

Examiners also observed disclosures that inputted incorrect information into the field for third-party services the borrower cannot shop for. The root cause was loan processors making mistakes while manually inputting the data, reflecting inadequate training for inputting information and inadequate controls to detect the errors before providing the disclosures to the borrower.

The table lists compliance practices that examiners have observed and recommend to mitigate compliance risks.

CONCLUSION

This article discusses common violations and sound practices to mitigate risks related to the Closing Disclosure. This disclosure provides critical loan information to applicants to help them make informed decisions, so it is important that accurate information be provided. Violations noted here involving understated finance charges and APRs are particularly significant because the harm is material and may involve restitution. Specific issues and questions about TILA and Regulation Z requirements should be raised with your primary regulator. ■

TABLE: Sound Compliance Practices

Training	<ul style="list-style-type: none">• Conduct regular TILA training to ensure that employees accurately input data into Closing Disclosures• Identify and train for difficult or confusing situations• Provide flowcharts and example forms for staff
Consumer Complaints	<ul style="list-style-type: none">• Review complaints received by the institution or by the Federal Reserve Consumer Help complaint system for possible internal control weaknesses, adjusting and strengthening processes as needed to ensure compliance
Controls	<ul style="list-style-type: none">• Conduct secondary review of disclosures• Validate TILA disclosure software before implementing it
Monitoring	<ul style="list-style-type: none">• Keep open communication with loan software provider to protect against errors and ensure patches and updates are received and implemented• Ensure that third parties are aware of their compliance requirements
Policies and Procedures	<ul style="list-style-type: none">• Implement detailed policies and procedures

ENDNOTES*

¹ 12 U.S.C. §5532(f).

² 12 U.S.C. §5532(b)(3).

³ 12 C.F.R. §1026.19(c)(1).

⁴ 12 C.F.R. §1026.19(f)(1).

⁵ Comment 17(c)(1)-10(i).

⁶ The APR is subject to a tolerance of one-eighth of 1 percentage point for loans whose monthly payments are generally uniform ("regular transaction"), while loans with nonuniform payments such as ARM loans ("irregular transaction") are subject to

a tolerance of one-quarter of 1 percentage point. 12 C.F.R. §1026.22(a)(2) and (3), respectively; Interagency Examination Procedures for the Truth in Lending Act at p. 41. Whether an understated finance charge affects the accuracy of the APR depends on the degree to which the finance charge is understated in excess of the \$100 tolerance. A larger understatement is more likely to affect the APR's accuracy. But note: If the finance charge for a mortgage loan is understated *within* the \$100 tolerance, all other disclosures calculated using the finance charge, such as the APR and amount financed, are deemed accurate. 12 C.F.R. §1026.18(d)(1).

* Note: The links for the references listed in the Endnotes are available on the *Consumer Compliance Outlook* website at consumercomplianceoutlook.org.

FICC TELEBRIEFING

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Recent Developments

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Recent Developments

AML/BSA

OFAC Sanctions. On February 11, 2025, OFAC added Zservers, a Russia-based bulletproof hosting services provider, and two Russian individuals, to the SDN list for their role in supporting LockBit ransomware attacks. On February 20, 2025, OFAC added James Kabarebe, Rwanda's Minister of State for Regional Integration, and Lawrence Kanyuka Kingston, an M23 and Congo River Alliance senior member, and two of Kingston's companies, to the SDN list for their involvement in the death of thousands of civilians in the Congo. On February 6, 2025, OFAC added individuals, entities, and vessels working for sanctioned entity Sepehr Energy Jahan Nama Pars to the SDN list for shipping millions of barrels of Iranian crude oil to China.

ICC. On February 06, 2025, the White House issued [Executive Order \(E.O.\) 14203, "Imposing Sanctions on the International Criminal Court."](#) OFAC added Karim Asad Ahmad Khan KC, a British lawyer who has served as Prosecutor of the International Criminal Court since 2021, to the SDN list.

Search Tool. OFAC launched its new [File Finder application](#) for use on the OFAC website. This browser-based application allows users to search through and efficiently navigate all of OFAC's website content. File Finder searches all static content on OFAC's website by document title, document type, and the contents of each document. Searchable content typically includes general licensees, federal register notices, executive orders (and other legal documents), press charts, advisories, specific guidance, as well as many other records.

Fines, Settlements, and Orders

Transgressor	Fine or Order, and Date	Wrongful Action
Brink's Global Services USA, Inc.	\$37 million FinCEN fine; forfeited \$50,391,143.22 to USDOJ (\$20,391,143.22 may be forgiven after two years); 2-6-2025	Willfully shipping hundreds of millions of dollars in bulk currency shipments across the Southwest Border on behalf of high-risk entities—including a Mexican currency exchanger that later pleaded guilty to violating the BSA. Brinks was also criminally charged with operating an unlicensed money transmitting business, transferring tens of millions of dollars into the US. Brinks also failed to implement a BSA/AML program.

Cuba Sanctions Reinstated. The Cuba Restricted List was rescinded January 16, 2025 (National Security Memorandum 29 (NSM-29) revoked NSPM-5 and directed the Secretary of State to immediately rescind the Cuba Restricted List). On January 20, 2025, the President issued an Executive Order rescinding NSM-29, and the Secretary of State republished the [Cuba Restricted List](#) on February 6, 2025, consistent with the instruction in NSPM-5 and the existing CACR.

CFPB

CFPB Work Suspended. NPR, Bloomberg, the Washington Post, and other new outlets [reported](#) that Director Chopra was fired, and replaced by Treasury Secretary Bessent as acting CFPB Director. On February 3, 2025, the Acting Director sent a memo to all CFPB staff suspending virtually all of their work, including work on all rules, all research, all publications and communications, and all examinations and enforcement actions. CNN [reports](#) that the CFPB terminated all expert witnesses working on litigation on behalf of the CFPB.

Mr. Bessent was replaced by OMB director Russell Vought, who is now acting CFPB director. According to reports from [NPR](#) and the [NY Times](#), Mr. Vought ordered the closing of the CFPB offices, fired employees that were hired in the past two years, and directed all remaining employees to work remotely. Mr. Vought ordered the CFPB not to request further funding from the FRB on the basis that the CFPB had sufficient funds. The CFPB internet web landing page, [CFPB.gov](#), says “page not found,” but all of the subpages linked there appear intact.

On February 7, 2025, the Court of Appeals [stayed](#) the implementation of the rule requiring collection of small business loan data until all litigation is resolved. The CFPB notified the court that “[c]ounsel for the CFPB has been instructed” by new leadership “not to make any appearances in litigation except to seek a pause in proceedings.”

The Hill [reported](#) on February 14, 2025, that a federal court [temporarily blocked](#) the mass firing of CFPB employees, and the potential deletion of all CFPB databases. USDOJ also reached an agreement with the union representing CFPB employees to not fire them without cause while that litigation is ongoing.

The White House issued an [Executive Order](#) directing the CFPB to terminate the Academic Research Council and the Credit Union Advisory Council. The Executive Order also ordered the termination of all 26 Federal Executive Boards.

Prior to February 3, 2025,

Rescinded Advisory Opinion. On January 15, 2025, the CFPB issued an [Advisory Opinion](#) to rescind an Advisory Opinion it issued in November 2020 that described how one particular type of “earned wage” product does not involve the offering or extension of “credit” as that term is defined in the Truth in Lending Act and Regulation Z. The CFPB rescinded the 2020 Advisory Opinion for two fundamental reasons: (i) its legal analysis is significantly flawed in numerous respects; and (ii) it engendered substantial regulatory uncertainty.

Renters in Financial Distress. The CFPB published a [Report](#) and a [Data Spotlight](#) analyzing national rental payment data from September 2021 to November 2024. The percentage of renters who paid late fees in the last year reached 23% in February 2023. While the rate declined to slightly less than 14% in November 2024, the CFPB’s analysis found that the median outstanding rental balance rose 60% between September 2021 and November 2024, suggesting increased financial distress among affected households. Renters who do pay late fees often pay

multiple late fees in a year, and the average late fee is \$85, up significantly from September 2021. The reported outstanding rental balance has increased sharply from \$2,000 in September 2021 to \$3,200 in November 2024. Only about half of renters behind on their rent catch up in one month.

Servicemembers Pay More for Auto Loans. The CFPB published a [Report](#) showing that US Servicemembers pay higher costs and face greater financial risks than civilian borrowers when taking out credit to buy a car. The report states that Servicemembers borrow more while putting less down, military borrowers pay higher rates over longer terms. Add-on products, including GAP products, increase costs further.

Credit Bureaus Identified. The CFPB published its [annual list of consumer reporting companies](#). The list identifies dozens of specialty reporting companies that collect and sell access to people's data, including individuals' finances, employment, check writing histories, or rental history records. People can use the list to, among other things, request their consumer reporting data, dispute inaccuracies, and block access to their credit reporting data through security freezes. The list also informs consumers about the types of personal financial information that is collected for credit and other consumer reports.

Blogs. No blog articles have been posted since January 21, 2025.

FRB

Stress Test Scenarios. The FRB [announced](#) hypothetical scenarios for its annual stress test, and two hypothetical elements designed to probe different risks through its "exploratory analysis" of the banking system. The exploratory analysis will not affect bank capital requirements.

In the 2025 stress test scenario, the U.S. unemployment rate rises to 10%. The unemployment rate increase is accompanied by severe market volatility, a widening of corporate bond spreads, and a collapse in asset prices, including about a 33% decline in house prices and a 30% decline in commercial real estate prices.

This year's exploratory analysis includes two separate hypothetical elements that will assess the resilience of the banking system to a wider range of risks. One of the hypothetical elements examines how banks would react to credit and liquidity shocks in the non-bank financial institution sector during a severe global recession. The second element of the exploratory analysis includes a market shock that will be applied only to the largest and most complex banks. This shock hypothesizes the failure of five large hedge funds with reduced global economic activity and higher inflation.

Executive Order. The White House issued an [Executive Order](#) claiming that independent agencies (e.g., the FRB) are subject to policies, procedures and standards set by OMB, and that independent agencies must coordinate policies and procedures with the OMB, the White House Domestic Policy Council, and the White House National Economic Council. The Executive Order claims that the heads of independent agencies and their subordinate staff members and employees are ordinary "employees" under the control of the executive branch. "No employee of

the executive branch acting in their official capacity may advance an interpretation of the law as the position of the United States that contravenes the President or the Attorney General’s opinion on a matter of law, including but not limited to the issuance of regulations, guidance, and positions advanced in litigation, unless authorized to do so by the President or in writing by the Attorney General.” This Executive Order essentially claims that there are no independent agencies, and all such agencies (e.g., the FRB) are controlled by the president and his cabinet.

Banking Risks. In a relatively long [speech](#) (20 pages), Vice Chair for Supervision Michael S. Barr (whose term ends in a few days) discussed “seven specific risks ahead: (1) maintaining and finishing post-financial crisis reforms; (2) maintaining the credibility of the stress test; (3) maintaining credible, consistent supervision; (4) encouraging responsible innovation; (5) addressing cyber and third-party risk; (6) risks in the nonbank sector; and (7) climate risk. Each will continue to be a risk in either the near- or long-term.” Some of these issues are not priorities for new administration appointees.

Consumer Compliance Outlook. The latest edition of [Consumer Compliance Outlook](#) (20 pages) contains the following articles:

- [The Federal Reserve System’s Top-Issued Fair Lending Matters Requiring Immediate Attention and Matters Requiring Attention](#)
- [Top Federal Reserve System Compliance Violations in 2023 Under the Equal Credit Opportunity Act](#)
- [Top-Cited Federal Reserve System Compliance Violations in 2023 Under the Truth in Lending Act for the TILA RESPA Integrated Disclosure](#)
- [Complex Bank–Fintech Partnerships](#)
- [Interagency Statement on Elder Financial Exploitation](#)
- [2025 Calendar of Events](#)
- [Regulatory Calendar](#)

FDIC

Advisory Board Terminated. The White House issued an [Executive Order](#) directing the FDIC to terminate the Community Bank Advisory Council.

OCC

Stress Test Scenarios. The OCC released [economic and financial market scenarios](#) for use in the upcoming stress tests for covered institutions.

NCUA

Operating Fees and Examination Schedules. NCUA [announced](#) that federal credit union operating fees will decrease by an average of approximately 1.2% in 2025. Additionally, the operating fee exemption threshold was increased from \$2 million to \$2.08 million. Federal credit unions with a four-quarter average of \$2.08 million or less in total assets are exempt from the operating fee.

NCUA also [announced](#) changes to its policies for scheduling examinations of federal credit unions. The new policies will extend the time between examinations for some federal credit unions.

Reporting Cyber Incidents. NCUA [announced](#) an update to [Letter to Credit Unions 23-CU-07](#) and the availability of a new cyber incident reporting webform. To report a cyber incident, federally insured credit unions may notify the NCUA through one of the following channels:

- Complete the [Cyber Incident Credit Union Reporting System online form](#)(Opens new window) to send a secure incident report. This webform is mobile device friendly and is available under the [Cybersecurity Resources](#) webpage on NCUA.gov.
- Call the NCUA at 833-CYBERCU (833-292-3728) and leave a voicemail.
- Email the NCUA utilizing the Secure Email Message Center to send a secure email to cybercu@ncua.gov.

Supervisory Priorities. NCUA [announced its supervisory priorities for 2025](#):

- Due to increasing delinquencies and charge offs, NCUA examiners will continue to review credit unions' lending and related risk-management practices. This priority will include reviewing the sufficiency of loan underwriting standards, collection programs, Allowance for Credit Losses reserves, charge-off practices, management and board reporting, and management of any concentrations of credit risk.
- To the extent possible, examiners will also review credit unions' third-party risk-management practices when lending, servicing, or collection functions are outsourced.
- In evaluating credit unions' earnings and net worth risk-management frameworks, examiners will weigh the current and prospective sources of earnings and the composition of net worth relative to your credit union's approved plans and thresholds.
- Cybersecurity remains a top supervisory priority. Examiners will continue to use the [information security examination](#) procedures to assess whether your credit union has implemented robust information security programs to safeguard both members and the credit union itself.
- NCUA will continue to prioritize reviewing compliance with consumer financial protection laws and regulations during every federal credit union examination. In addition to reviewing any areas specific to your credit union identified during the risk-focused examination scoping process, in 2025 examiners will, in particular, assess your credit union's compliance with the following consumer financial protection areas:
 - *Overdraft programs.* Examiners will continue a review of credit union overdraft programs, including policies, procedures, disclosures, fees, account statements, member complaints, internal reviews, and websites.
 - *Fair lending.* Examiners will assess policies and practices for identifying and mitigating potential discrimination in residential real estate valuation practices.
 - *Home Mortgage Disclosure Act and Regulation C.* Examiners will evaluate compliance with Home Mortgage Disclosure Act data collection and reporting policies and practices, including transaction testing, for credit unions above the reporting threshold.

- *Military Lending Act*. Examiners will review compliance with the Military Lending Act requirements, including policies and procedures, compliance management systems, and checking and monitoring for military status.
- *Electronic Fund Transfer Act and Regulation E*. Examiners will assess policies and procedures related to payments and error resolution.

OTHER

Housing News. HUD [announced](#) that it is suspending enforcement of its gender identity rule.

Bloomberg [reports](#) that 40% of FHA staff were fired (a government spokesperson denied that this was accurate). Several news outlets report that half of all HUD employees will soon be fired, with firings highest in civil rights enforcement, disaster recovery (which supports FEMA), and research. No mortgagee letters have been published yet in 2025.

[FNMA Selling Guide Announcement SEL-2025-01](#) and [Servicing Guide Announcement SVC-2025-01](#) announce enhanced cyber incident reporting requirements. See the new [Fannie Mae Information Security and Business Resiliency Supplement](#), which is incorporated by reference as part of the Selling Guide, Servicing Guide and Consolidated Technology Guide. Lenders are reminded they are obligated to report any Cybersecurity Incidents (including those impacting third parties) as soon as possible but no later than 36 hours after discovery.

SEL2025-01 also discusses: Desktop Underwriter Version 12.0 policy updates; Early payoff reimbursement for MBS swap transactions; Hybrid appraisal expansion; Shared equity clarifications; and DU validation service – military income, and risk factors evaluated by DU. SVC 2025-01 also discusses shared equity clarifications.

[FHLMC Bulletin 2025-1](#) discusses:

- Property eligibility and appraisal requirements
 - Expanded eligibility for [hybrid appraisals](#) – April 7, 2025
 - An [updated effective date](#) for the automated collateral evaluation (ACE) and ACE+ PDR eligibility expansion – February 24, 2025
 - [Updated requirements](#) that affect the Seller’s ability to accept an ACE appraisal waiver offer and provide the Seller flexibility to deliver a different valuation product than what is required by the Last Feedback Certificate
 - Additional examples related to property condition ratings and updated requirements for [appraisals that must be completed “subject to” an inspection](#) – May 6, 2025
 - New [documentation requirements](#) for verifying completion when the appraisal report is completed “subject to” an inspection – May 6, 2025
- Credit underwriting
 - Updated requirements for the documentation and calculation of rental income for certain [non-subject investment properties and 2- to 4-unit Primary Residences](#)
 - Updated [age of tax return requirements](#) reflecting dates specific to the 2024 tax year
- Rent payment history

- The expansion of the [rent payment history](#) capability included in the Loan Product Advisor[®] assessment
- Additional Guide updates
 - Best Efforts and Mandatory Cash Contract extensions
 - ULDD Phase 5 updates (Effective July 28, 2025)
 - Green MBS
 - Recapture of premiums and reimbursement of buyup proceeds (Effective for Mortgages with Funding Dates or Settlement Dates on or after May 1, 2025)
 - Form 15/A/C, *Loan Purchase Statement*
 - Guide refactoring

[FHLMC Bulletin 2025-2](#) discusses:

- Portfolio reconciliation
 - New reporting requirements for [internal records](#) – June 1, 2025
- Foreclosure
 - New instructions for submitting third-party [foreclosure sale expenses](#) – June 2, 2025
 - A reminder to report accurate [foreclosure sale data](#)
- Servicing transfers
 - A clarification regarding responsibilities of a [Transferee and Transferor Servicer](#)
- Additional Guide updates
 - Property valuations for modifications
 - New make-whole preforeclosure sale contact information

SBA Drought Assistance. SBA [reminded](#) small businesses and private nonprofit organizations in Michigan of the March 10, 2025, deadline to apply for low interest federal disaster loans to offset economic losses caused by the drought and excessive heat that began on Jan. 1, 2024. The declaration covers the counties of Cheboygan, Chippewa, Emmet, Luce, Mackinac and Schoolcraft. Under this declaration, SBA’s [Economic Injury Disaster Loan \(EIDL\)](#) program is available to small businesses, small agricultural cooperatives, nurseries, and private nonprofit organizations that suffered financial losses directly related to the disaster. The SBA is unable to provide disaster loans to agricultural producers, farmers, or ranchers, except for small aquaculture enterprises. 21 states, Puerto Rico, and two Native Villages ([see the individual Notices](#)) still qualify for disaster relief.

Politico [reports](#) that 20% of SBA staff were fired.

NMLS Fees Increase. NMLS [announced](#) increased license and registration fees effective March 1, 2025.

Sovereign Wealth Fund. On February 3, 2025, the White House issued an [Executive Order](#) directing the Treasury and Commerce Departments to develop a plan for the establishment of a sovereign wealth fund.

Why Save the Penny? Several news outlets report that the Treasury wants to cease production of pennies to save costs. CNN [reports](#) that eliminating production of pennies would require more

nickels to meet the need for coins in circulation. “According to the latest [annual report](#) from the US Mint, each penny cost 3.7 cents to make, including the 3 cents for production costs, and 0.7 cents per coin for administrative and distribution costs. But each [nickel costs 13.8 cents](#), with 11 cents of production costs and 2.8 cents of administrative and distribution costs.” So, a penny’s worth of preservation is equal to a pound of cure, at least until retailers round up prices and state governments round up sales taxes to the nearest dime (producing a dime costs less than six cents).

ODDS AND ENDS

Litigation Against Executive Actions. For an ongoing list of litigation against federal funding freezes and mass firings, see the NY Times article [Tracking the Lawsuits Against Trump’s Agenda](#) (updated daily).

Economic Impact of Executive Actions on Michigan. Michigan Public (NPR) [reports](#) that \$21 Billion in funds for Michigan clean energy projects was frozen, and [reports](#) that funding for 28 Michigan agriculture programs was frozen. It has been reported that over \$200 million in federal funds for research at the University of Michigan is impacted by federal freezes and cutbacks, with lesser amounts impacted at other Michigan universities (the University of Michigan publishes a [blog](#) following federal funding developments impacting university research). Please be prepared for sudden changes in the income of individuals who are paid through government grants and loans, or who are government employees or contractors. Also be prepared for changes in income of organizations and vendors that derive income indirectly through the sale of services and goods to individuals and organizations that receive or are paid by federal funds.

A Cautionary Tale. The New York Times published an [investigatory article](#) detailing how the president of Heartland Tri-State Bank, a community-owned bank in Elkhart Kansas, was scammed by cryptocurrency thieves into embezzling tens of millions of dollars from the bank, and more from his church, to invest in a non-existent cryptocurrency fund. The bank was declared insolvent and closed. The morals here are (1) that if this can happen in small town Kansas, it can happen anywhere, and (2) that you cannot unquestionably trust anyone, even the president of the bank. Trust, but verify.

Other Fines and Enforcement Actions:

- On December 17, 2024, the FDIC fined WEX Bank \$650,000 for engaging in deceptive acts and unfair practices in violation of Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45(a)(1) by (1) failing to disclose the personal guarantor liability of certain corporate representatives applying for commercial credit on behalf of their businesses; (2) charging certain customers higher late fees, paper delivery fees, and reactivation fees than the Bank disclosed to consumers; (3) failing to disclose a returned payment fee to certain consumers; and (4) charging duplicate monthly fees to certain consumers.
- On December 17, 2024, the FDIC fined State Bank of De Kalb (TX) \$47,500 for violations of HMDA reporting rules.
- On January 16, 2025, the OCC entered into an agreement with Dearborn FSB to correct unsafe or unsound practice(s), including those relating to compliance management, fair lending risk management, insider activities, and compensation practices; violations of law

relating to recordkeeping; and noncompliance with guidelines relating to compensation practices.

- On January 30, 2025, the CFPB fined international remittance company Wise US Inc. \$2.025 million, ordered \$449,550.99 in restitution, and ordered substantial changes in policies, procedures, and compliance practices, for a series of Regulation E violations, including advertising inaccurate fees and failing to properly disclose exchange rates and other costs.
- On February 4, 2025, the FRB announced the termination of two enforcement actions against Wells Fargo. Both were issued in 2011, with the first relating to [deficient practices in residential mortgage loan servicing and foreclosure processing](#) and the second relating to [deficient mortgage lending practices at a former subsidiary](#). The termination of these enforcement actions does not affect the Board's 2018 enforcement action, which addressed widespread compliance issues by restricting Wells Fargo's growth.
- National Public Data made headlines last year after a data breach at the company reportedly exposed 2.9 billion records, including names and Social Security numbers. On February 20, 2025, California's Privacy Protection Agency announced that it brought an enforcement action seeking a \$46,000 fine (\$200 per day) against NPD for failing to register and pay an annual fee under the state's data deletion law.
- On February 21, 2025, Britain's competition regulator fined Citi, HSBC, Morgan Stanley, and Royal Bank of Canada a combined £104.5 million (\$132.4 million) for exchanging sensitive information about UK government bonds.