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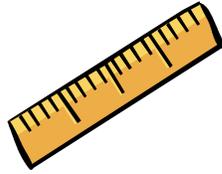
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Ghosts of Banking Past, Present, and Future?

- 1929: The stock market crashed.
- 1933: The Glass-Steagall Act separated investment and commercial banking activities. At the time, "improper banking activity," or what was considered overzealous commercial bank involvement in stock market investment, was deemed the main culprit of the financial crash. Included bank insurance through FDIC, and restricted payment of interest on demand deposits.
- 1964: Consumer Credit Protection Act includes Truth In Lending (Reg. Z)
- 1968: National Flood Insurance Act set up the NFIP
- 1974: Equal Credit Opportunity Act (Reg. B)
- 1974: Real Estate Settlement Procedures Act (Reg. X)
- 1975: Home Mortgage Disclosure Act (Reg. C)
- 1977: Community Reinvestment Act (Reg. BB)
- 1980: Depository Institutions Deregulation and Monetary Control Act of 1980 allowed bank mergers, phased out Reg. Q maximum rates, allowed NOW accounts and mandated universal reserve requirements to be set by the Federal Reserve for all depository institutions, regardless of their membership status.
- 1982: Garn-St. Germain Depository Institutions Act, which provided for adjustable-rate mortgage loans
- 1999: Gramm-Leach-Bliley Act which eliminated the GSA restrictions against affiliations between commercial and investment banks, and allows banking institutions to provide a broader range of services, including underwriting and other dealing activities.
- 2002: Sarbanes-Oxley Act- set new or enhanced standards for all U.S. public company boards, management and public accounting firms.
- 2007-2008: Financial crisis, considered by many economists to have been the worst financial crisis since the Great Depression of the 1930s, threatened the total collapse of large financial institutions, which was prevented by the bailout of banks by national governments, but stock markets still dropped worldwide.
- 2010: Dodd-Frank Wall Street Reform and Consumer Protection Act established the Consumer Finance Protection Bureau, and includes the Volker Rule.
- 2015: Implementation? Repeal? Revive Glass Steagall? Compromise? What will the New Year bring? We'll be reading it all along with you!

Short Clips



ALTERNATIVE DELIVERY METHOD FOR ANNUAL PRIVACY NOTICE MADE FINAL

On October 28th, the CFPB published a [Final Rule](#) in the Federal Register on the previously proposed amendment to Regulation P and the Gramm-Leach-Bliley Act (GLBA). As a result of some institutions expressing concerns about the burdensome requirements of mailing GLBA privacy notices annually to customers, the CFPB now allows financial institutions to satisfy the annual privacy notice requirement by posting the notice on their website if certain conditions are met. An institution may use this alternative delivery method if it: (1) is not required to have opt-out rights per information sharing practices under GLBA or Fair Credit Reporting Act (FCRA) Section 603, and opt-out notices required by FCRA Section 624 have already been provided (if applicable), or the annual privacy notice is the only notice required, (2) hasn't had any changes since the previous privacy notice, and (3) uses the model form per Regulation P.

If the alternative method is used, the annual privacy notice must always be posted in a clear and conspicuous manner on the website and should be available for everyone to see. The institution must also post a clear and conspicuous statement at least once per year. That notice may be either on an account statement, coupon book, or a notice or disclosure the institution issues under the provisions of the law. It must inform the customer that the notice is contained on the institution's website, that the institution will mail the notice to customers who request it by calling a specific phone number, and that the notice has not changed. For those customers who request the privacy notice, the institution must mail the annual notice within ten days of the request.

TIME FOR A FAIR LENDING ASSESSMENT?

On October 9th, the U.S. Department of Housing and Urban Development (HUD) announced in a [press release](#) that they reached a \$5 million settlement with Wells Fargo Home Mortgage after complaints of discrimination against women who were pregnant, had recently given birth, or that were on maternity leave. HUD has received 190 maternity leave discrimination complaints since 2010, resulting in more than 40 settlements to total nearly \$1.5 million in addition to this settlement.

Our clients should be aware that the [Fair Housing Act](#) makes it unlawful to discriminate against protected consumers in residential related transactions.

We note that various regulatory agencies have been advising clients to complete Fair Lending assessments.

SOCIAL SECURITY DISABILITY INCOME VERIFICATION

On November 18th, the CFPB issued [Bulletin 2014-03](#) to remind creditors of their obligations under the Equal Credit Opportunity Act (ECOA) and Regulation B and public assistance income. The bulletin also addresses relevant standards and guidelines regarding the verification of Social Security Disability Insurance and Supplemental Security Income submitted by mortgage applicants. Per ECOA and Regulation B, financial institutions cannot discriminate against an applicant where part or all of their income is derived from a public assistance program. Our clients should be careful to not treat these individuals differently on a prohibited basis.

CREDIT RISK RETENTION FINAL RULE

The FDIC, the Board of Governors of the Federal Reserve System, the Office of the Comptroller of the Currency, the U.S. Securities and Exchange Commission, the Department of Housing and Urban Development, and the Federal Housing Finance Agency issued a [Final Rule](#) implementing the securitization risk retention requirements in the Dodd-Frank Wall Street Reform and Consumer Protection Act in [FIL-55-2014](#). The rule establishes specific requirements for asset-backed securities.

PROVIDING SERVICES TO MONEY SERVICE BUSINESSES WHILE COMPLYING WITH THE BANK SECRECY ACT

On November 10th, the Financial Crimes Enforcement Network (FinCEN) issued a [Statement](#) to clarify the expectations for financial institutions with respect to money service businesses (MSBs). Apparently institutions are generally terminating or not opening MSB accounts, which is causing concern as MSBs play an important role in our financial system especially in providing remittance services. MSBs are losing access to banking services, which may be the result of regulatory scrutiny, the higher risk imposed, and the burdens with maintaining such accounts. FinCEN wants financial institutions to understand the importance of MSBs and the fact that they can still serve MSBs while meeting obligations under the Bank Secrecy Act (BSA).

Financial institutions are expected to assess the risks of customers on an individual basis. Denying financial services to an entire sector can reduce transparency in the financial sector, which is critical in making the sector resilient to illicit factors. Not all MSBs are considered high risk. When determining if an institution should offer services to an MSB, the risks of that specific customer should be assessed to determine if the institution can effectively manage the customer relationship. To comply with the BSA, FinCEN expects institutions that open and maintain accounts for MSBs to assess the risk on a case-by-case basis as with any other category of account holders.

CONSOLIDATED NON-SDN DATA FILES RELEASED AND SANCTIONS LIST SEARCH UPDATED

The Office of Foreign Assets Control (OFAC) [announced](#) October 10th that all of its non-SDN sanctions lists (including the Non-SDN Palestinian Legislative Council List, the Part 561 List, the Non-SDN Iran Sanctions Act List, the Foreign Sanctions Evaders List, and the Sectoral Sanctions Identifications List) are comprised in "the Consolidated Sanctions List". More information about the list can be found [here](#). This list does not include the Specifically Designated Nationals and Blocked Persons list. OFAC wants to reduce the number of list-related files that have to be downloaded to ensure that all sanctions list records are included in OFAC's [Sanctions List Search](#).

CERTAIN MORTGAGE RULES AMENDED UNDER THE TRUTH IN LENDING ACT

On November 3rd, the Federal Register published a [Final Rule](#) on amendments made by the Bureau of Consumer Financial Protection (CFPB) on mortgage rules issued in 2013. The final ruling provides an alternative small servicer definition for nonprofit entities that meet certain requirements along with some changes to the ability-to-repay exemption for nonprofit entities. Also, a cure mechanism has been established for loans that exceed the points and fees limit for qualified mortgages, but that meet the other requirements to be a qualified mortgage upon closing.

RURAL OR UNDERSERVED COUNTY LISTS UPDATED FOR 2015

On October 27th, the CFPB announced that the rural or underserved and rural county lists have been updated for 2015. The updated lists can be found [here](#). Some institutions with greater concentrations in rural or underserved counties than in other counties are exempt from certain regulatory requirements. Rural counties are typically determined by the USDA Economic Research Service's urban influence codes and underserved counties are based on data collected under the Home Mortgage Disclosure Act.

CFPB RELEASES COMPLIANCE BULLETIN AND POLICY GUIDANCE FOR RESIDENTIAL MORTGAGE SERVICERS AND SUB-SERVICERS

The CFPB issued [Bulletin 2014-01](#) (Guidance) to residential mortgage servicers and sub-servicers on August 19th. The Guidance was published in the [Federal Register](#) on October 23 which is also the effective date. The guidance replaces [Bulletin 2013-01](#) that was released in February 2013. The mortgage servicing market continues to thrive and the CFPB is concerned with the potential risks to consumers that may arise when residential mortgage servicing rights are transferred. The guidance is to advise servicers that the CFPB will continue to monitor their compliance with applicable Federal consumer financial laws. Although credit unions are prohibited from purchasing mortgage servicing rights, they may sell

them; therefore, they should also be aware of the potential risks.

The guidance refers to the new servicing rule in Regulation X, implementing the Real Estate Settlement Procedures Act that became effective January 10, 2014. The guidance contains four sections: Section A, "General Transfer-Related Policies and Procedures", Section B, "Applicability of the New Servicing Rules to Transfers", Section C, "Protections under Federal Consumer Financial Law", and Section D, "Plans for Handling Service Transfers". Large servicers should also expect the CFPB to require informational plans on how they will manage the risks to consumers. Clients that are involved in mortgage servicing transfers should review the guidance and ensure that they maintain appropriate controls to effectively mitigate consumer risk.

FREE FDIC TELECONFERENCE: FLOOD INSURANCE

We have heard many questions from clients about all the changes to flood insurance requirements. For your convenience we note that the FDIC Division of Depositor and Consumer Protection is offering a free teleconference December 9th to discuss the changes to the mandatory flood insurance purchase requirements. The teleconference will also provide an update on agency flood insurance rulemaking. Participants must register for the teleconference. More information can be found in [FIL-59-2014](#).

Proposals–Not Final Rules

INTERAGENCY PROPOSAL TO AMEND REQUIREMENTS FOR LOANS IN AREAS HAVING SPECIAL FLOOD HAZARDS

The Office of the Comptroller of the Currency (OCC), Board of Governors of the Federal Reserve System (Board), Federal Deposit Insurance Corporation (FDIC), the Farm Credit Administration (FCA), and the National Credit Union Administration (NCUA) (collectively the Agencies) are proposing to amend regulations regarding [loans in areas having special flood hazards](#) as published in the Federal Register on October 30th. They want to change the requirements to implement certain provisions of the Homeowner Flood Insurance Affordability Act of

2014 (HFIAA), which amends some of the changes to the Flood Disaster Protection Act of 1973 mandated by the Biggert-Waters Flood Insurance Reform Act of 2012. The proposed changes would establish escrow requirements for flood insurance payments to coincide with the HFIAA. In addition, an exemption for certain detached structures from the mandatory flood insurance purchase requirement would be incorporated. Other provisions of Biggert-Waters will be addressed in a separate rulemaking. The comment period closes December 29th.

ADDITIONAL FORECLOSURE PROTECTION

On November 20th, the CFPB [proposed](#) additional foreclosure protection measures to ensure that homeowners and struggling borrowers are treated fairly by mortgage servicers. The [proposed ruling](#) is quite lengthy (almost 500 pages) and amends the 2013 mortgage rules under RESPA and Truth in Lending. The amendments primarily focus on force-placed insurance notice requirements, policies and procedures, early intervention, and loss mitigation requirements and on periodic statement requirements.

Proposed changes include: requiring servicers to provide certain borrowers with foreclosure protections more than once over the life of the loan, expanding consumer protections to surviving family members and other homeowners, requiring servicers to notify borrowers when loss mitigation applications are complete, protecting struggling borrowers during servicing transfers, clarifying servicers' obligations to avoid dual-tracking and prevent wrongful foreclosures, clarifying when a borrower becomes delinquent, and providing more information to borrowers in bankruptcy. The comment period will end 90 days after publication in the Federal Register which does not appear to have happened as yet.

AMENDMENTS PROPOSED TO THE 2013 INTEGRATED MORTGAGE DISCLOSURES RULE

A [proposal](#) by the CFPB published on October 29th would amend the 2013 Integrated Mortgage Disclosures Rule. The proposal includes two modifications Final Rule taking effect next year: (1) to adjust the timing requirement for revised disclosures when the consumer locks a rate or extends a rate lock after the initial disclosures are provided and (2) to allow language related to new

construction loans to be included on the Loan Estimate form. The CFPB is also proposing to amend the 2013 Loan Originator Final Rule to provide a place for the Nationwide Mortgage Licensing System and Registry ID on the integrated disclosures. In addition, technical corrections, including citation and cross-reference updates and wording changes for clarifying purposes to various provisions of Regulations X and Z are proposed. The comment period already closed November 10th.

In the States



MASSACHUSETTS: PUBLIC HEARING ON FLOOD INSURANCE

The Commonwealth of Massachusetts Division of Banks is holding a [public hearing](#) on December 16th to receive comments relative to the proposed promulgation of [209 CMR 57.00: Flood Insurance](#). The regulations are in response to the recent amendments to the Flood statute by the legislature. Written comments may also be received and the comment period closes December 29th.

Good To Know

Send your questions to the answerperson@mmconsulting.info

Sending requests to the above address gets you a written response to your questions. Emails sent to the answer person are received five days a week. Call the answer person toll free at (888) 483-4333.

Q: Has there been a release of new Q&A on the Massachusetts flood insurance requirements going into effect November 20, 2014?

A: We searched for any further information on the new requirements. The statutes (MGL) have not yet been updated, so looking there is little help. You can find the amended law in the "Session Laws" , essentially those passed most recently and taking effect at malegislature.gov in the [Session Laws](#):

[Chapter 177 of the Acts of 2014](#). This revision to Chapter 183 of the General Laws, approved July 23, 2014, became effective in November, for consumer residential properties. The highlights are that a lender:

- Cannot require coverage higher than outstanding loans/lines.
- May not require contents coverage for residential property loans
- May not require a deductible of less than \$5,000, and
- Must include a clear and conspicuous notice at the time of the Borrower Notification requiring coverage: "Please note that the flood insurance we are requiring you to purchase will only protect your creditor's or lender's interest in your property. Massachusetts law prohibits a creditor or lender from requiring you to purchase flood insurance in excess of the amount of your principal mortgage and, in the case of a home equity line of credit, home equity loan or second and subsequent mortgage, the full value of the credit line, outstanding principal on the equity loan or second or subsequent mortgage on that property at the beginning of the year for which the policy will be in effect. The insurance may not be sufficient to pay for many needed repairs after a flood and may not compensate you for your losses in the property due to the flood. If you wish to protect your home or investment, you may want to purchase more flood insurance than the amount we are requiring you to buy."

The notice does not have to be on a separate document as far as we can tell, nor is a receipt required. However, as with most such notices, a receipt of some sort provides proof that it was received. Since the federal requirements are to obtain proof of receipt of the Borrower Notification when insurance is required, it makes sense to obtain receipt of this notice along with that.

The FAQs by the Division of Banking, to the extent they exist, are here: [Division of Banks Frequently Asked Questions on Chapter 177 of the Act](#). So far as we can tell, these have not yet been updated.

Important Dates- Don't Forget!

(Generally we retain the prior month, and go forward for at least a year as known. Dates are either effective dates of final rules, or end of the comment period for proposed rules.)

- 10/22/2014 [Regulation C](#). Comments close for proposed HMDA Reg. C amendments.
10/27/2014 [Regulation AA](#). Comments close on proposed repeal of Federal Reserve regulation.
10/29/2014 [Regulation C](#). Comments close on proposed amendments to expand requirements.
11/10/2014 [CRA Interagency Questions and Answers](#). Comments closed on proposed clarifications.
11/30/2014 [Form -92070](#). HUD form re Servicemember Civil Relief Act expires with no news of a revision.
12/29/2014 [Flood Insurance](#). Comment period expires for proposed amended Flood regulations.
01/01/2015 [Regulation Z](#). Annual Threshold Changes for the CARD Act, HOEPA, and ATR/QM
01/01/2015 [Regulation Z](#). Increased Dollar Threshold for consumer loans exemption.
01/01/2015 [Regulation M](#). Increased Dollar Threshold for consumer leases exemption.
08/01/2015 [Integrated Disclosures](#). TILA and RESPA combined disclosures required.
1/01/2016 Flood Insurance. Escrow rules effective date as delayed by [HR3370](#) in Sec.25.

SAVE THE DATE! SAVE THE DATE!

As part of our service to our clients we have always included training opportunities. With the new **CFPB Integrated Disclosures** due to become effective August 1, 2015, everyone is gearing up for the New Year! We know you are busy, and we know about Winter in New England, so we will be offering three webinars rather than in person sessions.

The first session is planned for **Thursday, January 22**, at no charge to you! This first session will cover the general requirements, with just a few reminders about implementation within your Compliance Management program.

We will also schedule a couple sessions toward the end of February into March to provide real details about completing and delivering the disclosures.

Further information will be sent to all our client contacts during the next month.

