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Practical Compliance

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In This Issue

Agencies Issue Final Rule on Private Flood Insurance Policies

On January 25, 2019, the Office of the Comptroller of the Currency, Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation, Farm Credit Administration, National Credit Union Administration (Agencies) issued the long-awaited Final Rule on Private Flood Insurance Policies, amending their regulations regarding loans in areas having special flood hazards, to implement the private flood insurance provisions of the Biggert-Waters Flood Insurance Reform Act of 2012 (Biggert-Waters Act). Prior to implementing this Final Rule, the Agencies issued two Proposed Rules addressing private flood insurance: the first in October 2013; and a revised proposal in November 2016.

The Final Rule:

- Requires regulated lending institutions to accept policies that meet the statutory definition of "private flood insurance" as defined in the Biggert-Waters Act;
- Permits institutions discretion to accept flood insurance policies issued by private insurers, as well as plans providing flood coverage issued by mutual aid societies, that do not meet the statutory definition of "private flood insurance," subject to certain restrictions (i.e. the policy must provide sufficient protection and be consistent with general safety and soundness principals, and the institution must document the sufficiency of the policy in writing); and
- Includes a compliance aid provision, which will allow financial institutions to determine whether a flood insurance policy meets the definition of "private flood insurance" without undertaking a lengthy evaluation of a policy.

Private Flood insurance Defined

To qualify as private flood insurance under the Final Rule, a policy must be issued by an insurance company that meets certain conditions, and the policy must provide flood insurance coverage that is at least as broad as the coverage provided under a standard flood insurance policy (SFIP) issued under the National Flood Insurance Program (NFIP) for the same type of property, including when considering deductibles, exclusions, and conditions offered by the insurer. The Final Rule sets forth specific requirements that a policy must meet to be considered to provide coverage at least as broad as an SFIP.

Specifically, the Final Rule defines private flood insurance as an insurance policy that:

(1) Is issued by an insurance company that is:
- Licensed, admitted, or otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located; or
- Recognized, or not disapproved, as a surplus lines insurer by the insurance regulator of the State or jurisdiction in which the property to be insured is located, in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property.

The Final Rule confirms that policies issued by surplus lines insurers for noncommercial properties already are covered in the definition of ''private flood insurance'' as policies that are issued by insurance companies that are ''otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located.

(2) Provides flood insurance coverage that is at least as broad as the coverage provided under an SFIP for the same type of property, including when considering deductibles, exclusions, and conditions offered by the insurer. To be at least as broad as the coverage provided under an SFIP, the policy must, at a minimum:
- Define the term ''flood'' to include the events defined as a ''flood'' in an SFIP;
- Contain the coverage specified in an SFIP, including that relating to building property coverage; personal property coverage, if purchased by the insured mortgagor(s); other coverages; and increased cost of compliance coverage;
- Contain deductibles no higher than the specified maximum, and include similar non-applicability provisions, as under an SFIP, for any total policy coverage amount up to the maximum available under the NFIP at the time the policy is provided to the lender.
  For policies with coverage in excess of the amount available under the NFIP, the policy must only meet the deductible applicable for the amount of coverage available in an SFIP. For example, if a private policy for a commercial structure provides coverage of $1,000,000, in excess of the $500,000 NFIP maximum for that type of structure, then the policy only would need to match the SFIP deductible for the first $500,000. However, it would be acceptable for that policy to have deductibles higher than the NFIP maximum for the coverage over $500,000;
- Provide coverage for direct physical loss caused by a flood and may only exclude other causes of loss that are excluded in an SFIP. Any exclusions other than those in an SFIP may pertain only to coverage that is in addition to the amount and type of coverage that could be provided by an SFIP or have the effect of providing broader coverage to the policyholder; and
- Not contain conditions that narrow the coverage provided in an SFIP;

(3) Includes all of the following:
- A requirement for the insurer to give written notice 45 days before cancellation or non-renewal of flood insurance coverage to the insured; and to the lender that made the designated loan secured by the property covered by the flood insurance, or the servicer acting on its behalf;
- Information about the availability of flood insurance coverage under the NFIP;
- A mortgage interest clause similar to the clause contained in an SFIP; and
- A provision requiring an insured to file suit not later than one year after the date of a written denial of all or part of a claim under the policy; and

(4) Contains cancellation provisions that are as restrictive as the provisions contained in an SFIP.

Mutual Aid Society

The Final Rule defines a mutual aid society as an organization:
- Whose members share a common religious, charitable, educational, or fraternal bond;
- That covers losses caused by damage to members' property pursuant to an agreement, including damage caused by flooding, in accordance with this common bond; and
- That has a demonstrated history of fulfilling the terms of agreements to cover losses to members' property caused by flooding.

Because the definition of mutual aid society already requires that the entity has a demonstrated history of fulfilling the terms of agreements to cover losses to members' property caused by flooding, the Final Rule eliminated the proposed requirement that a lender consider the policy provider's ability to satisfy claims, such as whether the policy provider has a demonstrated record of covering losses, as it was deemed duplicative and unnecessary.

The Final Rule provides that a lender may accept a plan issued by a mutual aid society in satisfaction of the flood insurance purchase requirement provided that the following four criteria are met:

- The lender's primary Federal supervisory agency has determined that such plans qualify as flood insurance for purposes of this Act;
- The plan must provide coverage in the amount required by the flood insurance purchase requirement;
- The plan must cover both the mortgagor(s) and the mortgagee(s) as loss payees; and
- The plan must provide sufficient protection of the designated loan, consistent with general safety and soundness principles, and the lender must document its conclusion regarding sufficiency of the protection of the loan in writing.

While the Final Rule removed the reference to deductibles included in the list of criteria in the Proposed Rule for mutual aid societies, making the language comparable to that in the "discretionary acceptance" provision of the Final Rule. While neither provision lists specific factors that a lender could consider in determining whether a private insurance policy is consistent with safety and soundness, the Final Rule clarifies that a lender can still consider the reasonableness of deductibles when determining whether a mutual aid society coverage provides sufficient protection of a loan.

Compliance Aid for Mandatory Acceptance

The Final Rule contains a simplified compliance aid compared to the one outlined in the Proposed Rule. First, the Final Rule eliminated the first two criteria contained in the Proposal; (1) the insurer's written summary demonstrating how the policy meets the definition of "private flood insurance"; and (2) the lender's written verification of the accuracy of this summary. In addition, the Final Rule modified the third proposed criterion to clarify that a lender may determine that a policy meets the definition of "private flood insurance" without further review of the policy, if the following statement is included within the policy or as an endorsement to the policy: *"This policy meets the definition of private flood insurance contained in 42 U.S.C. 4012a(b)(7) and the corresponding regulation."*

Thus, if a policy includes the above compliance aid statement, a lender may rely on that statement, and does not need to review the policy to determine whether it meets the definition of "private flood insurance." However, as indicated in the Final Rule, a lender could choose not to rely on this statement, and instead make its own determination.

The Agencies noted that they have no regulatory authority over insurers, and as such, cannot require that an insurance policy include this compliance aid statement. However, if insurers choose to include this statement in their policies, it will facilitate the ability of lenders, as well as consumers, to recognize policies that meet the definition of "private flood insurance"; and will promote the consistent acceptance of policies across the market that meet this definition. The compliance aid as provided in the Final Rule is intended to leverage the expertise of insurers to assist lenders; and may provide policyholders and lenders with recourse against insurance companies that fail to abide by the terms included in the definition of "private flood insurance," consistent with relevant State law.

This compliance aid provision, however, does not permit lenders to reject a policy that meets both the definition of "private flood insurance" and fulfills the flood insurance coverage requirement, but which does not include the compliance aid statement.

Discretionary Acceptance

The Discretionary Acceptance provision in the Final Rule is less burdensome and restrictive than the provision

contained in the Proposed Rule, especially with respect to commercial properties.

The Final Rule eliminated some of the proposed criteria for discretionary acceptance; including the requirements that: (1) a policy include a specific cancellation clause, and (2) coverage in a flood insurance policy issued by a private insurer be "at least as broad as" or "similar to an SFIP."

In addition, the Final Rule modified the mortgage interest clause criteria; providing that with respect to the discretionary acceptance provision, the policy must cover both the mortgagor(s) and the mortgagee(s) as loss payees; except in the case of a policy that is provided by a condominium association, cooperative, homeowners association, or other applicable group and for which the premium is paid by the condominium association, cooperative, homeowners association or other applicable group as a common expense. This exception is identical to the exception provided for the requirement to escrow flood premiums currently contained in the Agencies' flood insurance rules.

Thus, the Final Rule permits lenders to accept flood insurance policies issued by private insurers that do not meet the statutory and regulatory definition of "private flood insurance" if four criteria are met.

- The policy must provide coverage in the amount required by the flood insurance purchase requirement;
- The policy must be issued by an insurer that is licensed, admitted, or otherwise approved to engage in the business of insurance by the insurance regulator of the State or jurisdiction in which the property to be insured is located; or in the case of a policy of difference in conditions, multiple peril, all risk, or other blanket coverage insuring nonresidential commercial property, is issued by a surplus lines insurer recognized, or not disapproved, by the insurance regulator of the State or jurisdiction where the property to be insured is located;
- The policy must cover both the mortgagor(s) and the mortgagee(s) as loss payees, except in the case of a policy that is provided by a condominium association, cooperative, homeowners association, or other applicable group and for which the premium is paid by the condominium association, cooperative, homeowners association, or other applicable group as a common expense;
- The policy must provide sufficient protection of the designated loan, consistent with general safety and soundness principles, and the lender must document its conclusion regarding sufficiency of the protection of the loan in writing.

The simplified discretionary acceptance provision facilitates the ability of lenders to accept flood insurance policies issued by private insurers that do not satisfy the definition of "private flood insurance" in the Biggert-Waters Act. Further, the addition of a safety and soundness criterion makes the standard for discretionary acceptance consistent with the standard included in the "mutual aid society" provision.

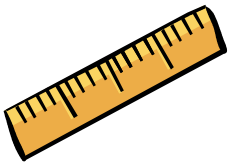
The Final Rule makes note of some of the factors a lender could consider in determining whether a flood insurance policy provides sufficient protection of a loan, including:

- whether the flood insurance policy's deductibles are reasonable based on the borrower's financial condition;
- whether the insurer provides adequate notice of cancellation to the mortgagor and mortgagee to ensure timely force placement of flood insurance, if necessary;
- whether the terms and conditions of the flood insurance policy with respect to payment per occurrence or per loss and aggregate limits are adequate to protect the lender's interest in the collateral;
- whether the flood insurance policy complies with applicable State insurance laws; and
- whether the private insurance company has the financial solvency, strength, and ability to satisfy claims.

Effective Date

Lenders that are able to and that wish to comply with the Final Rule prior to July 1, 2019, may do so. The Agencies note that until July 1, 2019, lenders may continue to accept flood insurance policies issued by private insurers and coverage provided by mutual aid societies as currently permitted by each Agency.

Short Clips



FinCEN Alerts Financial Institutions to Suspected 314(b) Phishing Attempts

On 02/01/19, the Financial Crime Enforcement Network (FinCEN) announced it is investigating reports of phishing attempts using it's 314(b) information sharing system. While FinCEN does not believe its system has been compromised or hacked, it is encouraging institutions participating in the information sharing program to check its Secure Information Sharing System (SISS) for additional information.

CFPB Issues Policy Guidance on HMDA Data Release

On 01/31/19, policy guidance issued by the Consumer Financial Protection Bureau (CFPB) describing the Home Mortgage Disclosure Act loan-level data it plans to release publicly in 2019 was published in the Federal Register. In this guidance, the Bureau announced that it would not release property addresses, applicants' credit scores or automated underwriting results. However, the CFPB will release certain information with reduced precision, including borrower ages, loan amount and number of units in the dwelling.

The Bureau also announced that it would begin the rulemaking process in 2019 to consider what HMDA data it will disclose in future years.

Agencies Issue Final Rule on Private Flood Insurance Acceptance

On 01/25/19, the financial regulatory agencies released a Final Rule governing the acceptance of private flood insurance. The rule, which will be effective on July 1, 2019, implements the 2012 Biggert Waters Act provision that requires federally regulated lending institutions to accept private flood insurance policies that meet certain statutory criteria. Implementation of the statutory requirements without impeding the development of a market for private flood insurance was such a challenge that the agencies issued an initial proposal in 2013, and after reviewing the comments published a revised proposal in 2016.

The Final Rule contains a compliance aid to facilitate lenders' acceptance of such private policies. The rule permits lenders to accept private policies that do not meet the statutory criteria but in the judgment of the lender offer sufficient protection for a designated loan consistent with general safety and soundness principles. The rule also permits lenders to use discretion in accepting certain plans providing flood coverage issued by "mutual aid societies", such as agreements by Amish communities to cover flood losses to members' property.

CFPB Seeks Clear Authority to Supervise MLA Compliance

On 01/17/19, the CFPB sent a draft legislative proposal to Congress seeking to grant the Bureau clear authority to supervise for Military Lending Act (MLA) compliance. The Bureau believes that the requested authority would complement the work that it currently does to enforce the MLA.

CFPB Issues Analyses of Qualified Mortgage Rule

On 01/10/19, the CFPB issued its Assessments of the Ability-to-Repay/Qualified Mortgage rule and the RESPA Mortgage Servicing Rule, as required by the Dodd-Frank Act.

The Act requires the Bureau to conduct an assessment of each significant rule or order adopted by the Bureau and to publish a report of its assessment no later than five years after the effective date of the significant rule or order. Such assessments shall address, among other relevant factors, the effectiveness of the rule in meeting the purposes and objectives of the Dodd-Frank Act and the specific goals stated by the Bureau in issuing the rule in question. The assessment shall reflect available evidence and any data that the Bureau reasonably may collect. Before publishing a report of its assessment, the Bureau shall invite public comment on recommendations for modifying, expanding, or eliminating the rule or order. Neither assessment contained any such recommendations.

HMDA Filing Period Open for 2018 Data

The CFPB announced that the filing period for Home Mortgage Disclosure Act (HMDA) data

collected in 2018 opened as of 01/01/19, and that financial institutions may begin using the HMDA platform to begin the filing process for their HMDA data, and may continue to provide feedback on their experience or direct any questions to HMDAHelp@cfpb.gov.

Agencies Issue Final Rule Extending Exam Cycle for More Banks

On 12/28/19, a final rule issued by the federal banking agencies implementing a provision in the S. 2155 regulatory reform bill that make qualifying banks with up to $3 billion in assets eligible for an 18-month on-site exam cycle was published in the Federal Register. Prior to S. 2155's passage, only banks with under $1 billion in assets were eligible.

Under the final rule, which takes effect on 01/18/19, insured depository institutions, including federal or state branches of foreign banks, qualify if they have an "outstanding" or "good" composite rating.

Agencies Update CRA Asset-Size Thresholds

On 12/20/18, the financial regulatory agencies announced the annual adjustment to the asset-size thresholds they will use to differentiate small and intermediate banks and savings associations under the Community Reinvestment Act.

A "small bank" or "small savings association" will be defined as an institution that, as of December 31st of either of the prior two calendar years, had assets of less than $1.284 billion. An "intermediate small bank" or "intermediate small savings association" will be defined as a small institution with assets of at least $321 million as of December 31st of both of the prior two calendar years, and less than $1.284 billion as of December 31st either of the prior two calendar years. These adjustments will be effective 01/01/19. The FFIEC CRA website has been updated to include information on these adjustments.

FDIC Announces Actions Taken Regarding Brokered Deposit Regulations

On 12/19/18, the FDIC issued a press release announcing two actions it had taken regarding brokered deposits: issuing a Final Rule Regarding Reciprocal Deposits, which eases restrictions on deposits placed with banks by third party brokers; and publishing an Advance Notice of Proposed Rulemaking (ANPR) on Brokered Deposits and Interest Rate Restrictions, which seeks comment on whether it should further update its brokered deposit rules and related interest rate caps to better include technological changes.

The Final Rule was published in the Federal Register on 02/04/19; and is effective on 03/06/19. The Comment Period for the ANPR will end 90 days after its publication in the Federal Register.

FHA Announces New Loan Limits for 2019

On 12/15/18, the Federal Housing Administration (FHA) published it's 2019 Loan Limits. The 2019 limits reflect an increase in the maximum conforming loan limits for mortgages the Agency will insure in the new year. The loan limit in lower-cost areas will be $314,827, or 65 percent of the national conforming loan limit of $484,350. In high-cost areas, the limit will be $726,525, the FHA said. FHA-insured reverse mortgages will be capped at $726,525. Approximately 82 percent of U.S. counties are considered lower-cost areas, with 2.3 percent at the ceiling, and the remaining 15.7% somewhere in between.

FCC Adopts Reassigned Number Database with Safe Harbor

On 12/12/18, the Federal Communications Commission (FCC) announced that it would create a database of phone numbers that have been relinquished by one individual and reassigned to another individual. Under existing case law and the FCC's Telephone Consumer Protection Act regulations, a depository institution or other company is liable for a call made in good faith to a party who has consented to receive the call but whose telephone number has been reassigned to another consumer, unbeknownst to the caller.

CFPB Proposes Updates to 'No-Action Letter' Policy

On 12/13/18, the CFPB's proposal to make changes to its no-action letter policy, and to establish a regulatory "sandbox" that would encourage financial institutions to test new, innovative financial products was published in the

Federal Register. The revised policy seeks to improve the no-action letter process by eliminating several redundant or burdensome elements, streamlining the CFPB's processing and review of the applications and expanding the types of relief available, among other things.

In addition, through the proposed product "sandbox," depository institutions could receive similar no-action relief, along with two additional forms of relief: (1) "approval relief" - which expressly states that acts taken or omitted in conformity with the approval fall within a statutory "safe harbor" from liability; or (2) "exemptive relief" an exemption from a statutory or regulatory provision. The CFPB added that under the "sandbox" concept, it expects relief to be provided for a limited amount of time; in most cases, two years. Comments on the proposal are due by 02/11/19.

Agencies Propose Amendments to Regulation CC - Funds Availability

On 12/10/18, a Proposed Rule by the Federal Reserve System (Fed) and the Consumer Financial Protection Bureau (CFPB) on the Availability of Funds and Collection of Checks (Regulation CC) was published in the Federal Register. The proposal includes a calculation methodology for implementing a statutory requirement to adjust the dollar amounts in the EFA Act every five years by the aggregate annual percentage increase in the Consumer Price Index for Wage Earners and Clerical Workers (CPI-W) rounded to the nearest multiple of $25. Comments on the proposal are due by 02/08/19.

Agencies Propose Raising Residential Real Estate Appraisal Threshold to $400K

On 12/07/18, the financial regulatory agencies' Proposal that would raise the appraisal threshold for residential real estate transactions from $250,000 to $400,000 was published in the Federal Register. Comments on the proposal are due by 02/05/19.

Under the proposal, transactions that qualified for the exemption would still need to obtain an evaluation consistent with safe and sound banking practices. The evaluation would provide an estimate of the market value of the property; but would not be required to be prepared by a state licensed or certified appraiser; and would be less detailed and costly than an appraisal. In addition, the proposal would incorporate an exemption for rural residential appraisals that was mandated by the new regulatory reform law.

FinCEN and Federal Banking Regulators Issue a Joint Statement to Encourage Innovative Industry Approaches to BSA/AML Compliance

On 12/03/18, FinCEN and the federal banking regulators and issued a Joint Statement encouraging depository institutions to consider, evaluate, and, where appropriate, responsibly implement innovative approaches to meet their Bank Secrecy Act/anti-money laundering (BSA/AML) compliance obligations to strengthen the financial system against illicit financial activity.

The Joint Statement indicates the Agencies recognize that private sector innovation, including adopting new technologies and finding new ways to use existing tools, can help depository institutions identify and report money laundering, terrorist financing, and other illicit financial activity; and makes clear that the Agencies are committed to continued engagement with the private sector and other interested parties.

Each of the agencies has established, or will establish, projects or offices to support the implementation of responsible innovation and new technology in the financial system. While depository institution management should continue to follow existing protocols for communication with their respective regulators, these projects and offices may serve as points of contact to facilitate communication related to innovation and new technology.

The agencies also welcome industry feedback on how they can best support innovative efforts through explanations of, or updates to, supervisory processes, regulations, and guidance. Those wishing to share such feedback in writing may do so by sending their submission electronically to FinCEN at FRC@fincen.gov.

Good to Know

Send your questions to the
answerperson@mandm.consulting

Sending requests to the above address gets you a written response to your regulatory compliance questions. Emails sent to the answer person are received and responded to five days a week.

Q: If sending an FCRA Employment Disclosure via email, is e-consent needed from the applicant before doing so.

A: Yes, demonstrable consent from the applicant is needed per 15 USC 7001 section 101 (C)(1). https://www.govinfo.gov/content/pkg/PLAW-106publ229/pdf/PLAW-106publ229.pdf

Q: Are there any New Hampshire states laws or regulations that require a NH Bank to cash checks that are drawn on us, where the payee is not a customer? For example, our customer makes a check payable to the person who plows their driveway; and that person, a non-customer, comes to our bank to cash the check.

A: The relevant rules are outlined in §3-104 and §3-501 of the Uniform Commercial Code. If the holder of the instrument presents the check and satisfies identification requirements, I do not see a way for the Bank to refuse payment.

Q: Can you tell me if we can use the "Equal Housing Opportunity" statement on a letter where we mention Mortgages, or do we have to use the actual logo?

A: I do not see any exemption, under the Federal Housing Act section 110.25, that would allow the use of the statement "equal housing opportunity" without also showing the logo.

Q: We currently have an account product titled Christmas Clubs. We want to change the name to Holiday Account, with no other changes to the account. As there does not appear to have any adverse impact to the customer, we do not believe there's a need for an advance disclosure to customers.

A: Section 1030.5(a)(1) of Regulation DD does not require a notification for an account name change; as it is not one of the items that is required to be disclosed under 1030.4(b).

Q: We are in the process of reviewing internal forms and would like to discontinue producing the following 2 items:

- Rate Sheets-These sheets include all interest-bearing deposit products, we currently generate and print weekly or each time rates change.
- Product sheets-these include descriptions, fees, minimums of each consumer deposit product.

We are wondering whether we can simply print the applicable TIS disclosure in response to consumer requests about an account? These full disclosures can be printed at any time.

A: I am not aware of any requirement for a bank to produce a publicly available rate sheet; or any regulatory restriction on printing the requested TIS disclosure at the time of a consumer's request rather than having a supply in stock.

Q: An employee here was questioning if we should be including future title updates (for the drawn down of the loan during construction) as a prepaid finance charge or not. The question came up because they remembered M&M saying it was not a PFC, but that was years ago, and we can't find documentation supporting that claim.

A: While Section 1026.4(c)(7)(i) appears to generally exclude such fees in a transaction secured by real property or in a residential mortgage transaction, if the fees are bona fide and reasonable in amount. However, please note that Comment 1026.4(c)(7)-3 states that a charge so excluded may be considered as a pre-paid finance charge if the charge relates to service to be performed after the closing of the loan.

Q: We are exploring changing our construction disbursement process and requiring a borrower to open a checking account for all construction advances. I want to chat with a consultant to ensure a few things, 1. That we can require a borrower to open a checking account for this purpose and 2. If it needs to be disclosed anywhere or included in the APR?

A: You may impose deposit requirements so long as that clause is reflected within the mortgage. And while typically you would disclose the APR

does not reflect the effects of the required deposit account under 1026.18(r), Comment #6 therein indicates, an account for constructions purposes is excluded from those accounts considered required deposits as noted below:

6. *Examples of amounts excluded. The following are among the types of deposits that need not be treated as required deposits:*
   i. *Requirement that a borrower be a customer or a member even if that involves a fee or a minimum balance.*
   ii. *Required property insurance escrow on a mobile home transaction.*
   iii. *Refund of interest when the obligation is paid in full.*
   iv. *Deposits that are immediately available to the consumer.*
   v. *Funds deposited with the creditor to be disbursed (for example, for construction) before the loan proceeds are advanced.*
   vi. *[Reserved]*
   vii. *Escrow of loan proceeds to be released when the repairs are completed.*

Q: We are in the process of implementing an automated dispute tracking system for Reg. E errors. On occasion, our customer service team will submit a dispute which is not necessarily an error by Reg. E standards (e.g., a credit card transaction that would be covered, but not a comparable debit card transaction). In these instances, if we input the dispute into the automated system, would we would have to provide the letter(s) within specified time frames according to Reg. E; informing the customer that their request was declined, or can we make a note on the system that it is not a Reg. E error and have the customer service rep. call the customer and inform them of the decision?

A: If the dispute is entered into your tracking system, we'd recommend that you send a letter stating their request was declined and why.

Q: I have a question about whether we need to collect GMI for a certain type of loan; even though we are not a HMDA reporting institution. Specifically, for an unsecured, short-term time note, granted for the purpose of purchasing and improving a 1-4 family residential property, are we required to collect GMI?

A: The requirement to collect GMI under 1002.13(a)(1) of Regulation B applies only when the credit extended is secured by the dwelling that is occupied or to be occupied by the borrower as a principal residence. As you indicated that the loan is unsecured; the loan in question is not subject to this requirement, and the Bank should not collect GMI for this loan.

Q: We are doing a loan to a business that will be guaranteed by one of the banks' Board Trustees. They do not own or have managerial control of the company; they are just personally guaranteeing the debt. Does Reg. O apply here?

A: Yes, I believe Reg O would apply. The regulation does not appear to make a distinction when the insider serves as the guarantor of an extension of credit. §215.3(a) merely states that *"An extension of credit is a making or renewal of any loan, a granting of a line of credit, or an extending of credit in any manner whatsoever"*. While an exception involving a guarantor-type role does exist under §215.3(b)(4)(i), which states that *"An endorsement or guarantee for the protection of a bank of any loan or other asset previously acquired by the bank in good faith"*; I do not believe that this applies to your loan.

Q: A few years back, the Credit Union had a website audit performed (not by M&M). There was a recommendation that we round the deposit rates listed on our website to 2 decimal places, instead of 3. Also, our TIS Disclosures have rates rounded to three decimal places. Is this correct?

A: §707.3(f)(1), *Rounding and accuracy rules for rates and yields*, states that:

> *"The annual percentage yield, the annual percentage yield earned, and the dividend rate shall be rounded to the nearest one-hundredth of one percentage point (.01%) and expressed to two decimal places. For account disclosures, the dividend rate may be expressed to more than two decimal places."*

As rates displayed on your website would most likely fall under the category of "advertising disclosures", both dividend rate and APY should be restricted to two (2) decimal places.

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.)

01/01/2019 HMDA, Regulation C. Effective date for changes to enforcement and reporting provisions.
01/01/2019 CFPB, Regulation Z. Effective date for annual changes in Regulation Z dollar thresholds.
01/01/2019 Federal Reserve, Regulation CC. Effective date for changes involving electronic check liability provisions.
01/01/2019 Federal Reserve, Regulation J. Effective date for final amendments that reflect the modernized collection process.
01/22/2019 FDIC, RFI – Efforts to Encourage Small-Dollar Lending . End of Comment Period.
01/28/2019 Agencies, Final Rule Extending Exam Cycle for More Banks. Effective Date of Final Rule.
02/05/2019 Agencies, Proposed Rule Raising Residential RE Appraisal Threshold. End of Comment Period.
02/08/2019 Federal Reserve and CFPB, Regulation C, Proposed Amendments. End of Comment Period.
03/06/2019 FDIC, Final Rule Regarding Reciprocal Deposits. Effective Date of Final Rule.
04/01/2019 CFPB, Prepaid Accounts Rule. New mandatory compliance date for most Reg. E & Reg. Z changes, electronic transaction histories, and for submitting prepaid account agreements to the CFPB.
07/01/2019 Agencies, Final Rule on Acceptance of Private Flood Insurance. Effective Date of Final Rule.
01/01/2020 HMDA, Regulation C. Quarterly reporting for high volume reporters starts.
04/01/2020 CFPB, Prepaid Accounts Rule. Revised mandatory compliance date for providing the full 24 months of written account transaction history upon request.

SAVE THE DATES... 2019 M&M COMPLIANCE SCHOOL

The 2019 M & M Compliance School will be held in Milford, MA at the Double Tree on 9/17 & 9/18. Additional details will be coming shortly. We discussed moving the school to Portsmouth, NH for 2019, unfortunately we were not successful given the cost and dates. We will continue to explore different locations for 2020, but we look forward to seeing everyone in Milford!

