

April 2010 - INTERSTATE CAPITOL COMMENTS

Community Bankers Association of Kansas

3003 SW Van Buren, Suite A *Topeka, KS 66611-2224 *Phone: 785-271-1404 *Fax: 785-271-1508

info@cbak.com * www.cbak.com



CBA Chairman's Annual Golf Classic

May 24th, 2010

WHERE

Buffalo Dunes Golf Course
5685 S. Hwy 83
Garden City, Kansas 67846
620-276-1210

WHEN

Monday, May 24, 2010

8:00 a.m. – Shotgun Start
(4 man scramble format)

12:30 p.m. – Reception/Lunch
(reception/lunch will be at the golf course)

(To access a blue underlined hyperlink, place your cursor on the link, use Ctrl + Click and the page will open.)

Editor's message: We don't usually write and publish stories that are this lengthy, but we believe community bankers need to be aware of and educated about the very real financial threat posed to their banks by business method patents (process patents), specifically the patents discussed in this story.

First jury trial on process patents for check imaging results in loss for financial industry

The New York Times, in an article entitled [Small Company Is Specializing in Suing Banks](#), described DataTreasury as “a company whose business, other than one client, is suing other companies.” As that article points out, banks took “for granted that there are certain basic ways to process payments.” Therefore, they never dreamed of patenting these processes. The technology patent that DataTreasury owns is for check-scanning technology that has been used by banks as far back as the early 1980s, and have been evolving ever since. The technology that DataTreasury claims was invented by the patent applicant (Claudio Ballard a minority owner of DataTreasury) has actually been used in the U.S. since the early 1990s. After several failed attempts at obtaining a patent, Mr. Ballard encrypted a couple of numbers and the patent office granted his patent. Mr. Ballard received the patent, not because he invented the process, but because those using the processes never dreamed that the process was patentable.

DataTreasury has been settling with financial institutions for millions of dollars, not because those settling with them necessarily believe that DataTreasury deserved a patent, but because defending the lawsuits would be more costly than settling and because certain courts were likely to be sympathetic to DataTreasury. In fact, on March 27, 2010, a federal jury in Plaintiff-friendly Marshall, Texas, returned the first jury verdict for DataTreasury on this issue. DataTreasury asked for \$201 million, and the jury awarded \$27 million against U.S. Bancorp, The Clearing House Payments Co. LLC and Viewpointe LLC. (*Datatreasury Corporation v. Wells Fargo & Company et al.*, 06-cv-00072, filed Feb. 24, 2006, E.D. Texas (Marshall))

Jury selection in another trial involving Wells Fargo & Co. and Wachovia Bank is set for August 1, 2010. A third jury trial against Bank of America, Corp., SunTrust Bancorp, KeyBank, and LaSalle Bank is scheduled to begin on October 5, 2010. These have all strategically been filed in Marshall, Texas. See the American Banker article entitled [DataTreasury's Check Imaging Win Could Spur Patent Settlements](#).

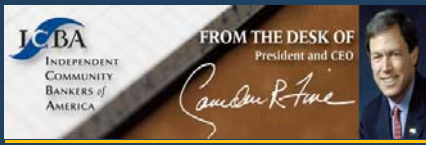
The Marshall Messenger, the local newspaper in Marshall, Texas, followed the federal jury trial very closely:

[Check imaging at heart of patent suit](#) – March 15, 2010 (opening arguments)

[Check Imaging at heart of patent suit](#) – March 16, 2010 (initial direct testimony)

[Friend: Inventor's passion "infectious"](#) – March 17, 2010 (additional direct testimony)

[Executive questioned on history](#) – March 18, 2010



FINE POINTS

**By Camden R. Fine
President and CEO of ICBA**

A Message for All Times

Every year since I became ICBA's president and CEO, I have given a speech on the state of our association during the ICBA National Convention. In my first such address, I vowed that ICBA would become militantly active for community bank interests in Washington. I promised then that our association would take the offense.

Today the evidence is everywhere and overwhelming that we have done just that. On every major financial issue, ICBA and community bankers are at the policy tables in Washington. Community banking leaders have met with President Obama in the White House on three high-profile occasions during the past year. Your ICBA staff now regularly joins the policy-table discussions in the White House, the Treasury, the regulatory agencies and the offices of House and Senate leaders. ICBA's messages, your messages, echo in the president's speeches, including his State of the Union address.

Over the past few months and years, ICBA has demonstrated that the community banking industry is a force to be reckoned with. We have seized the high ground in the financial-reform debate. And what has our unprecedented access in Washington accomplished?

ICBA has ...

- increased the deposit-insurance-coverage cap to \$250,000,

[Bank lawyers seek mistrial](#) – March 19, 2010

[Computer expert's report disputes DataTreasury patents](#) – March 24, 2010

[Closing arguments set in patent case](#) – March 25, 2010

[Banks lose patent suit](#) – March 26, 2010

And with Data Treasury's trial win, it is gaining momentum through dollars. With the millions of dollars it has already procured through settlements (so-called licensing deals) and may receive through this jury decision, it is a well-funded litigation machine.

In the meantime, there are other companies and individuals with payments and financial-services process patents who are sitting on the sidelines watching and waiting to see what happens with DataTreasury's claims. If DataTreasury is allowed to succeed with what amounts to extortion, it will just be the beginning, not the end.

Though we do not claim to be experts in the field of patent law, our understanding is that business method patents exploded after the 1998 federal court decision in [State Street Bank & Trust Co v. Signature Financial Group, Inc.](#) This case stated that the fact that an invention is a new method of doing business will no longer prevent someone from obtaining a patent where his invention satisfies the patentability standard. This case had and will continue to have a profound effect on a wide range of industries and the U.S. economy itself. According to John B. Moetelli, Esq, in his article entitled [Financial Services Using New Business Methods Enabled by Software are Now Patentable in the U.S. with Extraterritorial Effects](#), business method patents have been granted for home shopping, smart card technology, credit card account management, e-cash/e-money, e-commerce, electronic funds transfer instruments, fail safe online financial systems, integrated billing systems, program trading algorithms, remote banking, home banking, back office software, insurance plans and products, artificial intelligence to aid in making underwriting and loan decisions, mutual funds, and annuity contract management. And that list was created by Mr. Moetelli in 1999. There's no telling what a list like that would look like today. According to the Wall Street Journal, the U.S. Patent Office received 974 business method patents in 1997 compared with 13,779 in 2008.

Currently, there is an important case at the U.S. Supreme Court on business method patents: *Bilski, et al., v. Kappos (08-964)*. A decision could be issued by the Supreme Court any day. Here is a link to a [transcript of the oral argument](#). The case hinges on whether a method must be tied to a particular machine or transform certain subject matter to be patent-eligible. Here are a number of articles on this case:

[New York Times: Quick, Patent It! \(Nov. 7, 2009\)](#)

[Christian Science Monitor: Supreme Court to Decide: What Kind of Innovations Get a Patent? \(Nov. 8, 2009\)](#)

[New York Times: Justices Hear Patent Case on Protecting the Abstract \(Nov. 9, 2009\)](#)

[Wall Street Journal: Justices to Study Patents on Business Methods \(Nov. 9, 2009\)](#)

[Wall Street Journal: Skeptical Justices Mull Business Method Patent \(Nov. 10, 2009\)](#)

[Wall Street Journal: Court is Cool to Patents on Methods \(Nov. 10, 2009\)](#)

[Washington Post: High Court Considers Whether Business Methods Can Be Patented \(Nov. 10, 2009\)](#)

[Wall Street Journal: The Supreme Court v. Patent Absurdity \(Nov. 15, 2009\)](#)

[Time: Supreme Court: When do Ideas Deserve Patents? \(Nov. 18, 2009\)](#)

Comment: No bank or depository institution in the country is safe from being sued by this litigation shop disguised as a corporation. In the future, to protect themselves from multi-million dollar lawsuits, financial institutions will likely be forced to obtain a patent for every process that it uses, regardless of whether it seems worthy of patenting. These financial institutions (or other business method patent-holders) could then potentially enjoin other financial institutions from continuing to use these processes until they pay licensing fees. This will greatly inhibit innovation and progress in banking and many other industries. One innovation usually builds off another, but with exceptionally broad patents being granted for common business practices, and patent-holders using those broad patents to hold entire industries hostage, many of those innovations will be on-hold indefinitely. The time has come to revamp our patent laws to encourage the sharing of innovation rather than to further

- obtained 100-percent deposit-insurance coverage for transaction accounts,
- deflected much of the 20-cent special assessment to the largest banks,
- secured tax breaks for GSE preferred stock,
- stopped mortgage-cramdown legislation,
- stopped expanded credit-union lending powers,
- halted the Farm Credit System's Horizon Project,
- ensured community banks access to several government financial-industry assistance program,
- expanded SBA lending programs,
- won community banks exemptions from a range of new and crippling assessments and fees,
- shielded our members entirely from new examination forces,
- expanded Subchapter S corporation terms and benefits and
- advocated vigorously for more even-handed examinations for community banks.

I could go on. But one other accomplishment must never be underestimated: ICBA and our members have together drawn a bright line understanding in the public's mind between a Main Street community bank and a Wall Street megabank. Now policymakers and the public know that community banks are the heart and lifeblood of this nation. They recognize that community bankers kept our financial sector going when Wall Street slid into the heart of financial darkness—that your bank's lending *increased* when Wall Street's fell. And while Wall Street investors and executives rewarded themselves with your tax dollars, policymakers understand that you have had to overcome harsh and counterproductive examinations simply to continue sustaining your

inhibit it.

FDIC extends TAG program

The FDIC adopted the attached [interim final rule](#)ⁱ extending the TAG for six months, through December 31, 2010, with the possibility of extending the program an additional 12 months without further rulemaking. For institutions choosing to remain in the TAG, the basis for calculating the current assessments is modified to one that uses average daily balances in TAG-related accounts. Interest rates on NOW accounts guaranteed under the TAG program are also lowered. Comments on the interim rule are due 30 days following its publication in the *Federal Register*. [FDIC Memo](#)ⁱⁱ.

Comment:

- *Insured Depository Institutions (IDI) currently participating in the program that wish to opt out of the TAG extension must submit their request to opt out on or before April 30, 2010. Such election will be effective on July 1, 2010.*
- *The interim rule gives the FDIC's Board of Directors the authority to grant an additional 12-month extension of the program, through December 31, 2011, without further rulemaking, if it determines that continuing economic difficulties warrant such extension.*
- *IDIs participating in the extended TAG program are obligated to remain in the program an additional 12 months if it is extended.*
- *Beginning with the September 30, 2010, Call Report, the total dollar amount of TAG-qualifying accounts and the total number of accounts must be reported as an average daily balance.*
- *The maximum interest rate limit for NOW accounts guaranteed under the TAG program will be 0.25 percent, effective July 1, 2010.*
- *Every IDI currently participating in the TAG program should review its disclosures and modify them as necessary to ensure that they will be accurate after June 30, 2010.*
- *TAG assessment rates will remain the same during the six-month extension.*

Legislation to make the TAG program permanent has been introduced in the House by Congressman Luis Gutierrez of Illinois (HR 2498).

While most community bankers are pleased that this was extended, it is disappointing that the FDIC chose to lower the maximum interest rate limit for NOW account from 0.50 to 0.25 and caused additional reporting difficulties by basing covered balances on daily averages rather than end-of-quarter account balances.

OCC weighs in on Reg E overdraft opt-in marketing materials

The OCC issued guidance on implementation of the [final rule](#)ⁱⁱⁱ for overdraft opt-in requirements and a reminder to national banks that materials associated with the opt-in procedures must comply with FTC standards.

Comment: When the OCC says that the opt-in procedures must comply with FTC standards, they mean that your bank must take steps to ensure that any additional information provided with the opt-in notice is provided in a manner that does not constitute an unfair or deceptive practice within the meaning of the FTC Act. Make sure that any additional materials comply with the FTC Act, Reg DD, and are on separate sheet from the opt-in form. See [OCC Advisory Letter 2002-3](#), [FTC Policy Statement on Deception](#), and [FTC Policy Statement on Unfairness](#).

There can't really be another revision to the RESPA Rule FAQs, can there?

HUD has revised their [RESPA Rule FAQs](#)^{iv} again on April 2, 2010. As usual, the changes are in bold type.

Lapse of FEMA's authority to issue flood insurance contracts

The authority of the FEMA to issue flood insurance contracts under the NFIP lapsed at midnight on March 28, 2010. The Federal Reserve issued [informal guidance](#)^v that provides information on issues that may arise during a period of lapsed authorization for lenders and borrowers concerning loans that are or will be secured by property located in a Special Flood Hazard Area. This guidance applies to this current lapse period and will continue to apply if there are any future lapses in the NFIP.

communities through a historic calamity not of your making.

For decades the Wall Street megafirms set the financial-services agenda in Washington. But beginning in 2008, ICBA and community bankers have let all of America know that times have changed. Now, with a possible endgame nearing for congressional negotiations over financial-reform legislation, all community bankers must continue to show that this is our financial system too. We must not back away from fighting together to preserve our franchises, our communities and the great diversity and strength of this nation's community banking system.

The decades of subservience to Wall Street are over. That's an industry message that together you and I will deliver to Washington policymakers now and forever.

Reach Camden R. Fine at cam.fine@icba.org.



Remember the Financial “Pearl Harbor!” Remember the Bailouts!

In March 2008, Bear Stearns was bailed out by the U.S. taxpayers. What followed was a series of astonishing government interventions, seizures (remember the GSE-preferred stock debacle) and Wall Street mega bank collapses that culminated in the March 2009 FDIC announcement of a 20-cent special assessment on all banks—the great bulk of the burden smacking an already shaken community banking industry right in the face. ALL community banks were staggered by this announcement—ICBA likened it to a financial Pearl Harbor—because it was the community banking sector that had been the responsible player

Comment: The lapse does not affect your ability to make a loan secured by improved real property in a special flood hazard zone. You must continue to make flood hazard determinations and provide notice to consumers. Page three of the guidance contains lender options regarding new loans during the lapse.

Interagency updated open-end and closed-end Reg Z exam procedures

The federal regulators have updated their examination procedures to address recent amendments to TILA by the Credit Card Accountability Responsibility and Disclosure Act of 2009 the Higher Education Opportunity Act and the Helping Families Save Their Homes Act, and accompanying revisions to Regulation Z. These examination procedures address changes in open-end credit requirements, and new requirements for student loans and mortgage transfer notices. The OTS issued their [updated exam procedures](#)^{vi} on April 2, 2010 accompanied by a six page [memo to CEOs](#)^{vii} that discusses the changes.

Interagency exam procedures on duties of furnishers of information

The Task Force on Consumer Compliance of the Federal Financial Institutions Examination Council recently approved the [examination module](#)^{viii} for the regulations (12 CFR 222.40 - .43) pertaining to the duties of furnishers of consumer information to a consumer reporting agency. The furnisher provisions are effective July 1, 2010. Under the regulations, each furnisher of consumer information must:

1. establish and implement reasonable written policies and procedures regarding the accuracy and integrity of consumer information that it furnishes to a consumer reporting agency;
2. consider the interagency guidelines concerning information accuracy and integrity when developing written policies and procedures; and
3. conduct a reasonable investigation of a dispute submitted to it by a consumer concerning the accuracy of any information contained in a consumer report that pertains to an account or other relationship that the furnisher has or had with the consumer.

Supreme Court and bankruptcy protection for student loans

The Supreme Court, in the case of [United Student Aid Funds, Inc. v. Espinosa](#)^{ix} ruled that the bankruptcy court's failure to find undue hardship before confirming the debtor's Chapter 13 bankruptcy plan was a legal error, but the order remains enforceable and binding on the lender because it had notice of the error and did not object or timely appeal.

Comment: Although this case was reported in the news as a change to bankruptcy law dealing with student loans, it is unlikely to have a wide effect on student loans because the decision was made on a very narrow issue having to do with timely objecting or appealing.

FinCEN final rule on mutual funds

[FinCEN's final rule](#)^x subjects mutual funds to rules under the BSA on the filing of CTRs and on the creation, retention, and transmittal of records or information for transmittals of funds. Additionally, the final rule amends the definition of mutual fund in the rule requiring mutual funds to establish AML programs. The amendment harmonizes the definition of mutual fund in the AML program rule with the definitions found in the other BSA rules to which mutual funds are subject. Finally, the final rule amends the rule that delegates authority to examine institutions for compliance with the BSA. The amendment makes it clear that FinCEN has not delegated to the IRS the authority to examine mutual funds for compliance with the BSA, but rather to the SEC as the federal functional regulator of mutual funds. Effective May 14, 2010.

OCC: Community bank directors workshops

The OCC will host workshops for directors of nationally chartered community banks in:

- Chicago, at the InterContinental Chicago Hotel, May 17-19, 2010

The workshop, entitled “A Director’s Challenge Mastering the Basics,” provides practical information that expands bank directors' skills and understanding of issues facing their banks. The workshop, which is geared primarily to outside directors of

throughout the crisis and had just gotten financially “bombed”.

Now, Wall Street wants you to pretend that the events of the past 30 months never happened. We don't need financial reform, they tell you. Financial reform will harm and hurt Main Street community banks, Wall Street tells us (as if suddenly Wall Street really cares what happens to you). To make sure financial reform doesn't come to pass, Wall Street firms individually, and their national trade group allies collectively, have more than quadrupled their lobbying forces. As the April 14th edition of the *New York Times* reported, they are now spending BILLIONS (yes, with a B) to make sure the status quo is maintained and financial reform never happens.

So, what changes for the community banks serving Main Street America if there is no financial reform at all? **NOTHING!** Yes, **NOTHING!** **And what does “NOTHING” mean?**

It means you will continue to pay FDIC assessments on five times as much of your balance sheet as Citi, while Citi continues to get bigger and suck down more of your market share—and taxpayer dollars—while you gasp for capital. It means more community bank investors are wiped out each Friday night, and their managers are fired while mega banks and “shadow” banking firms are either rewarded or escape regulation altogether. It means that cease and desist orders are handed out like candy to community banks while the 19 largest banks never see an enforcement order—no matter how outrageous their actions or insolvent their balance sheets. It means more midnight seizures of your preferred securities investments by the Treasury Department to satisfy Chinese bond holders.

The status quo means that you will continue to stagger under the consumer regulatory burden you already shoulder while the mortgage

national community banks with assets of less than \$1 billion, costs \$100 and is limited to the first 35 registrants. For information or to register [online](#), visit or call 336.451.0557.

Comment: Training is a necessity for bank directors, and this training is available in a great city at a very reasonable price. Yes, the Cubs have a five-game home stand beginning May 14th with night games on May 17th and 18th.

FDIC Consumer Alert: Consumers placing deposits through an agent

When a consumer purchases a deposit product through an agent, they rely on the agent for important things they need to know about their account. The agent should tell them what will happen to the money, the terms and conditions that apply, and whether the funds are eligible for FDIC insurance coverage. Before entrusting an agent with their money, the FDIC recommends they get answers to the questions in the [Consumer Alert](#).^{xi}

Comment: The questions the FDIC say the agent should answer are: “Will your funds be deposited in an FDIC-insured bank?” “Will your funds be placed in an insured deposit product?” “Will the interest rate and maturity date promised by the agent match the interest rate and maturity date offered by the bank?” If you have a customer who has purchased deposit products through an agent, you might ask them if they know the answers to these questions.

PUBLICATIONS, REPORTS, STUDIES, TESTIMONY & SPEECHES

- **OTS issue consumer mortgage loan brochure**

The OTS issued a [consumer mortgage loan brochure](#)^{xii} to assist consumers in finding the right mortgage loan.

Comment: This two page brochure spends an entire page explaining the GFE. We only wish the GFE were that simple to understand.

- **FTC: Settling Your Credit Card Debts**

This consumer brochure lists options for help in managing their debt, including dealing with their creditors directly, contacting a credit counselor, considering bankruptcy, and what to watch out for from companies that promise to settle their debt. It is available online as a [Web page](#)^{xiii}, an email, a [PDF](#), and in [Spanish](#).

- **Fed's Consumer Compliance Outlook**

The first quarter 2010 edition of the Federal Reserve's [Consumer Compliance Outlook](#)^{xiv} is available online.

Comment: This publication is available through [email](#) or [hard copy](#) subscription.

- **FedFocusSM**

April 2010 [FedFocus](#)^{xv} articles: First Bank moves one step closer to paperless check processing; Knowledge is power! Online tools to protect your customer's credit rights; Global challenge: Catching crooks while protecting privacy.

- **OTS 2009 Fact Book**

The OTS's annual statistical profile of the thrift industry was released. [2009 Fact Book](#)^{xvi}.

Comment: The highlights are on page five of this 93 page book. Among them: “The number of private sector thrifts supervised by OTS stood at 765 with assets of \$941.7 billion at the end of 2009. Industry assets decreased by 21 percent over the year reflecting the losses from thrift failures during the year. Thrift earnings showed signs of stabilizing in 2009 as the industry posted a profit of \$505 million in the fourth quarter and essentially broke even for the year. The industry reported net income of \$29 million in 2009, its first positive annual net income since 2006. Thrifts sustained net losses of \$649 million in 2007 and \$15.8 billion in 2008. In 2009, profits in the final two quarters offset losses in the first two quarters.”

Important upcoming compliance dates:

06.01.2010 [Reg GG \(Prohibition on Funding of Unlawful Internet Gambling\)](#)^{xvii} .—.

Requires non-exempt participants in designated payment systems to establish and implement written policies and procedures that are reasonably designed to identify and block or otherwise prevent or prohibit unlawful Internet gambling transactions. [Reg GG \(Extension of](#)

broker, the car dealer, the payday lender and the finance company across the street continue to have none of your compliance burdens (even though those nonbank financial players were largely responsible for this crisis).

As Cam Fine once said, if this financial crisis were the Titanic, the community banks of Main Street would be the third-class passengers—there were no life boats for us! Instead, those boats all went to the first-class Wall Street titans and their unregulated nonbank financial subsidiaries.

The status quo means the eventual end of what is left of Main Street. How do you think just 15 institutions out of 8,000 came to control more than 50 percent of our nation's deposits, and 60 percent of our total assets? They achieved this by disguising their purpose and scaring YOU—community bankers—into acting as their foot soldiers. And they did it by using the same misinformation, spin and high-priced PR that they're using to fight reform.

Yes, it is great to speak with “one voice”—if it's your voice that's heard. But if community banks are just members of the Wall Street chorus, they end up with crippling and unfair assessments and seized securities and wiped out shareholders, while the Wall Street mega firms end up with unlimited bailouts, record profits, rewarded investors and more market share. And a generation from now 15 banks will be all that remains of our once proud and diverse financial system.

So if there is no bill you get exactly what you asked for—**NOTHING!** No parity. No equal treatment. You will remain third-class passengers on the financial ship with a shortage of life boats. ICBA wants to get you better tickets on the ship and a seat on the life boat the next time Wall Street hits an iceberg.

	compliance date ^{xviii}
06.30.2010	TAG program expires. EXTENDED.
07.01.2010	Implementing FACT Act Accuracy & Integrity Rules: Deadline July 1, 2010
07.01.2010	Reg. Z ^{xix} – This is the mandatory compliance date for all provisions of the final rule on open end credit that were not mandatory on February 22, 2010. Generally, the Fed retained a July 1, 2010 mandatory compliance date for those provisions originally adopted in the January 2009 Regulation Z Rule that are not requirements of the Credit Card Act.
07.01.2010	Reg Z and Reg. AA (Unfair or Deceptive Practices) ^{xx} – A lender may not consider a credit card payment late unless statement is provided 21 days prior to due date. Requirements on how credit cards payments above minimum are allocated. Restriction on when credit card rates may change. Finance charges on previous billing cycles limited. Security deposits and fees limited.
07.01.2010	Reg E – The final rule limits the ability of a financial institution to assess an overdraft fee for paying ATM and one-time debit card transactions that overdraw a consumer's account, unless the consumer affirmatively consents, or opts in, to the institution's payment of overdrafts for these transactions. (Further amendments to Reg E ^{xxi} and Reg DD ^{xxii} have been proposed to clarify the initial Reg E amendments.)
07.01.2010	FACT Act (Fair and Accurate Credit Transactions Act) ^{xxiii} –Those furnishing consumer information to a consumer reporting agency must establish reasonable policies and procedures for implementing the guidelines in Appendix E.
08.22.2010	Reg E ^{xxiv} - The final rules prohibit dormancy, inactivity, and service fees on gift cards unless: (1) the consumer has not used the certificate or card for at least one year; (2) no more than one such fee is charged per month; and (3) the consumer is given clear and conspicuous disclosures about the fees. Expiration dates for funds underlying gift cards must be at least five years after the date of issuance, or five years after the date when funds were last loaded.
10.01.2010	Reg Z – Higher priced mortgage loan escrow for manufactured homes (See Reg Z changes for 04.01.2010)
12.31.2010	TAG program expires.
01.01.2011	FACT Act ^{xxv} – Generally require a creditor to provide a consumer with a notice when, based on the consumer's credit report, the creditor provides credit to the consumer on less favorable terms than it provides to other consumers. Alternatively, a creditor may provide such a consumer with a free credit score and information about their score.
12.31.2013	FDIC deposit insurance ^{xxvi} temporary limit increase to \$250,000 expires.
	Compliance dates from the not-so-distant past:
03.31.2010	TALF program expires ^{xxvii}
04.01.2010	Reg. Z ^{xxviii} – Escrow on higher priced loans (Specifically, 12 CFR 226.35(b)(3) ^{xxix} is effective April 1, 2010.)
02.27.2010	Reg. CC ^{xxx} -- These amendments reflect the restructuring of check-processing operations within the Federal Reserve System. Subsequent to these amendments, there will only be a single check-processing region for purposes of Regulation CC and there will no longer be any checks that are nonlocal.
02.22.2010	Reg Z ^{xxx1} . – Amendments establish a number of new substantive and disclosure requirements pertaining to open-end consumer credit plans,

including credit card accounts. This is the mandatory compliance date for the portion of § 226.5(a)(2)(iii) regarding use of the term “fixed” and for §§ 226.5(b)(2), 226.7(b)(11), 226.7(b)(12), 226.7(b)(13), 226.9(c)(2)(except for 226.9(c)(2)(iv)(D)), 226.9(e), 226.9(g) (except for 226.9(g)(3)(ii)), 226.9(h), 226.10, 226.11(c), 226.16(f), and §§ 226.51-226.58. The compliance date for all other provision of this final rule is 07.01.2010.

- 02.14.2010 [Reg. Z](#)^{xxxii} – Amendments revising the disclosure requirements for private education loan become mandatory.
- 01.19.2010 [Reg Z](#)^{xxxiii} – The purchaser or assignee that acquires a mortgage loan must provide the required disclosures in writing no later than 30 days after the date on which the loan is sold or otherwise transferred or assigned. (This rule was effective on 11.20.2009, but compliance was optional until 01.19.2010.)
- 01.01.2010 [Reg. X \(RESPA\)](#)^{xxxiv} – GFE and HUD-1 both change. Fee variance between GFE and HUD-1 limited based on fee type. Except with change of circumstances and new disclosures (within 3 business days of change), lender is locked into the fees originally disclosed for 10 business days after such disclosure.
- 01.01.2010 [Reg. DD \(Truth-in-Savings\)](#)^{xxxv} – Disclose overdraft fees for statement period and YTD on periodic statements. Balances on automated systems (e.g. ATMs) must not include overdraft protection amount.
- 01.01.2010 [Reg. S](#)^{xxxvi} – Update the fees to be charged for producing records and takes account of recent advances in electronic document productions.
- 01.01.2010 Effective date of TAG participant opt-out.
- 12.31.2010 [GLBA \(Model Privacy Form\)](#)^{xxxvii} – The agencies adopted a model privacy form that financial institutions may rely on after 12.31.2010 as a safe harbor to provide disclosures under the privacy rules.
- 12.30.2009 Prepay quarterly risk-based FDIC assessments for the fourth quarter of 2009, and for all of 2010, 2011, and 2012, on December 30, 2009, along with risk-based assessment for the third quarter of 2009.
- 12.01.2009 **COMPLIANCE DATE EXTENDED TO 06.01.2010.** [Reg. GG \(Unlawful Internet Gambling Act\)](#)^{xxxviii} – Must send required notice to existing customers. Must perform due diligence at account opening and have procedures for dealing with violations.
- 10.01.2009 [Reg. C \(HMDA\)](#)^{xxxix} – Loans requiring a rate spread must use Reg. Z’s new higher priced loan definition.
- 10.01.2009 [Reg. Z \(TIL\)](#)^{xl} – Higher priced mortgage loan consumer protections; prohibits appraiser influence; prohibits unfair/deceptive servicing standards on dwelling secured closed end loans; advertising rules open & closed end loans; changes on HOEPA loan criteria.
- 09.18.2009 [New International ACH Transaction \(IAT\) rule](#)^{xli} requiring all international ACH payments to be uniquely identified.

Comment: Distribute this calendar to your CEO, CFO, Compliance Officer, and Operations Officer.

This publication is designed to provide accurate and authoritative information in regard to the subject matter covered. It is provided with the understanding that the publisher is not engaged in the rendering of legal, accounting or other professional advice - from a Declaration of Principles adopted by the American Bar Association and a Committee of Publishers and Associations. © 2010 Independent Bankers Association of Texas; *All rights reserved.* Shannon Phillips Jr., Editor.

-
- ⁱ <http://www.fdic.gov/news/board/April04.pdf>
- ⁱⁱ <http://www.fdic.gov/news/board/April03.pdf>
- ⁱⁱⁱ <http://www.occ.gov/fr/fedregister/74fr59033.pdf>
- ^{iv} <http://www.hud.gov/offices/hsg/ramh/res/resparulefaqs422010.pdf>
- ^v <http://www.federalreserve.gov/boarddocs/caletters/2010/1003/10-3-attachment.pdf>
- ^{vi} <http://76.12.198.104/74872.pdf>
- ^{vii} <http://76.12.198.104/25343.pdf>
- ^{viii} <http://www.federalreserve.gov/boarddocs/caletters/2010/1005/10-5-attachment.pdf>
- ^{ix} <http://www.supremecourt.gov/opinions/09pdf/08-1134.pdf>
- ^x http://www.fincen.gov/statutes_regs/frn/pdf/MutualFund.pdf
- ^{xi} <http://www.fdic.gov/consumers/consumer/alerts/>
- ^{xii} <http://files.ots.treas.gov/482130.pdf>
- ^{xiii} <http://www.ftc.gov/bcp/edu/pubs/consumer/credit/cre02.shtm>
- ^{xiv} <http://www.philadelphiafed.org/bank-resources/publications/consumer-compliance-outlook/index.cfm>
- ^{xv} <http://www.frb services.org/fedfocus/index.html>
- ^{xvi} http://www.ots.treas.gov/_files/481165.pdf
- ^{xvii} <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20081112a1.pdf>
- ^{xviii} <http://edocket.access.gpo.gov/2009/E9-28746.htm>
- ^{xix} <http://edocket.access.gpo.gov/2009/pdf/E8-31185.pdf>
- ^{xx} <http://edocket.access.gpo.gov/2009/pdf/E8-31186.pdf>
- ^{xxi} <http://edocket.access.gpo.gov/2010/pdf/2010-3720.pdf>
- ^{xxii} <http://edocket.access.gpo.gov/2010/pdf/2010-3719.pdf>
- ^{xxiii} <http://www.ftc.gov/os/2009/07/R611017factafrn.pdf>
- ^{xxiv} <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20100323a1.pdf>
- ^{xxv} <http://edocket.access.gpo.gov/2010/pdf/E9-30678.pdf>
- ^{xxvi} <http://www.fdic.gov/deposit/deposits/difactsheet.html>
- ^{xxvii} <http://www.federalreserve.gov/monetarypolicy/20090817a.htm>
- ^{xxviii} <http://edocket.access.gpo.gov/2008/pdf/E8-16500.pdf>
- ^{xxix} <http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr;sid=54084c95801c7a737f1e9482f547274f;rgn=div2;view=text;node=20080730%3A1.19;idno=12;cc=ecfr;start=1;size=25>
- ^{xxx} <http://edocket.access.gpo.gov/2010/E9-31254.htm>
- ^{xxxi} <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20100112a1.pdf>
- ^{xxxii} http://www.federalreserve.gov/newsevents/press/bcreg http://www.federalreserve.gov/consumerinfo/wyntk_overdraft.htm g/20090730a.htm
- ^{xxxiii} <http://edocket.access.gpo.gov/2009/E9-27742.htm>
- ^{xxxiv} <http://www.hud.gov/offices/hsg/ramh/res/finalrule.pdf>
- ^{xxxv} <http://edocket.access.gpo.gov/2009/pdf/E8-31183.pdf>
- ^{xxxvi} http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=635f26c4af3e2fe4327fd25ef4cb5638&tpl=/ecfrbrowse/Title12/12cfr219_main_02.tpl
- ^{xxxvii} <http://edocket.access.gpo.gov/2009/E9-27882.htm>
- ^{xxxviii} <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20081112a1.pdf>
- ^{xxxix} <http://edocket.access.gpo.gov/2008/pdf/E8-25320.pdf>
- ^{xl} <http://www.federalreserve.gov/boarddocs/meetings/2008/20080714/draftfedreg.pdf>
- ^{xli} http://www.nacha.org/IAT_Industry_information/