

February 2010 - INTERSTATE CAPITOL COMMENTS

Community Bankers Association of Kansas

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2010 Kansas Legislative Session



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The 2010 Kansas Legislative session began on Monday, January 11. In 2009 the Legislature made massive, across-the-board budget reductions in state funding to agencies and programs. In addition to the budget reductions and sweeping of fee funds made by the Legislature, Governor Parkinson made two rounds of allotment cuts in state funding in 2009. Since the session began, monthly revenue collections have continued to decline. For 2010 the Governor proposed no additional budget reductions, but did include \$380 million in tax increases to avoid further

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

HUD issues another update to RESPA FAQs

Last month, we reported that HUD had updated its [FAQs](#)ⁱ...again. HUD has updated it again. As always, the changes are in bold.

Comment: I'm not sure that any rule change in the last few years has caused as much confusion as this one. An attorney friend who prepares real estate documents told me that, even after significant training, lenders are making fundamental errors on the GFE and HUD-1. If your mortgage lenders haven't received training on the RESPA changes, there are plenty of training opportunities available. Training is a must.

FFIEC issues 2009 mortgage fraud white paper

The FFIEC released an updated edition of its white paper today on mortgage fraud detection and deterrence. The white paper defines various types of fraud, gives examples of how individuals commit fraud, provides a list of red flags, and outlines best practices.

The latest edition, [Detection and Deterrence of Mortgage Fraud Against Financial Institutions: 2009 Mortgage Fraud White Paper](#)ⁱⁱ substantially updates [February 2005 white paper](#).ⁱⁱⁱ

The red flags outlined in the latest white paper are indicators of possible mortgage fraud or of the risk of potential exposure to mortgage fraud. The red flags are not evidence or proof of such fraud. The best practices illustrate how to detect and prevent mortgage fraud at regulated institutions and avert the losses that can result. The white paper does not establish any new examination policies or procedures, nor does it impose new requirements on regulated financial institutions.

The 2009 white paper discusses new and emerging schemes. The format of the white paper allows examiners to search and read about specific forms of mortgage fraud individually, enhancing its value as a reference guide in the field. The paper includes a summary description of each type of mortgage fraud scheme, which is hyperlinked to a more complete discussion. Associated red flags, best practices, and a cross-reference to companion frauds that may accompany the original fraud scheme are outlined and also hyperlinked for ease of navigation and use.

Comment: Having a staff that recognizes these schemes not only helps banks compete for mortgage loan business, but also puts the bank in a position to warn customers who may be considering one of these fraudulent mortgage loans. Additionally, this white paper would be a great resource for preparing a talk on mortgage fraud for community groups in your area. Forward a copy of this white paper to the person responsible for your mortgage lending operation.

FDIC responds to viral video

A viral video condemning the FDIC's loss sharing agreement with OneWest Bank in the IndyMac sale has caused the FDIC to issue a [release](#)^{iv}. FDIC called the video's claims about the loss sharing agreement "blatantly false." The FDIC listed the facts as:

OneWest has not been paid one penny by the FDIC in loss-share claims. The loss-share agreement is limited to 7% of the total assets that OneWest services, and OneWest must first take more than \$2.5 billion in losses before it can make a loss-share claim on owned assets. In order to be paid through loss share,

cuts. The Governor's budget is already \$40 million underfunded because of slow December and January revenue shortfalls. The Legislature is struggling with budgets, revenue, and the usual public policy issues. Thus far, the session is shaping up as extremely difficult.

Budgets and Revenue

Governor Mark Parkinson addressed the approximately \$380 million budget deficit that the state is currently facing. He made two suggestions to enhance state revenue: increasing the cigarette tax from 79 cents a pack to the national average of \$1.34 a pack and a 1 cent state sales tax for a 36-month duration. Without these new sources of funding, budgets, including K-12, will have to be reduced \$380 million. Due to revenue declines since his budget was submitted, cuts now equal at least \$420 million.

Both the House and Senate Tax Committees introduced legislation implementing the Governor's tax proposals. The House Tax Committee rejected the Governor's bills last week and the Senate Tax Committee will do the same in the next two weeks. There have been a variety of additional tax bills implemented, including liquor taxes but no income or property tax proposals. The most viable other revenue issue is an elimination of sales tax exemptions. Currently, state law exempts from sales tax a variety of entities and purchases including farm machinery and equipment, services, local units of government, and a variety of social service, charitable, and religious organizations. The Kansas Department of Revenue has recommended the Legislature eliminate sales tax exemptions for all named organizations. That would exclude Girl Scout Cookies, but not programs such as "Topeka Helping Humane Society" and other organizations who have received specific exemptions in the last twenty years or so. Local governments and schools would retain their current exemptions, but admissions to events or activities when a ticket is purchased would become subject to sales taxes.

What Will Happen

The dominant issue governing almost all other issues is the budget. Because of the decline in state revenue and if no taxes are increased, there have been large reductions in K-12 funding and all other areas of state government. Legislators will have to respond to the

OneWest must have adhered to the Home Affordable Modification Program.

The FDIC additionally posted a [Fact Sheet](#).^v

Comment: The video the FDIC is responding to appears to have drawn its facts from a blog post by [G. Hertzog](#) back in September 2009. The creators of the video that the FDIC responded to have made a [video](#)^{vi} and added a rebuttal to their [video](#).^{vii} The video also claims that the FDIC is trying to borrow money from the Treasury. As we know, that is not true. The FDIC is, as their press release pointed out, funded by assessments on the banking industry. The FDIC is not funded by tax dollars.

State Mortgage Regulators Launch Consumers Access Site

State financial regulators started providing consumers with free access to information on state-licensed mortgage companies, branches and individuals on Jan. 25. The information will be provided through the Nationwide Mortgage Licensing System & Registry (NMLSR) — a mortgage licensing system operated by state financial regulators. [Consumer Access](#) is a fully searchable Web site that provides consumers with a single location to obtain standardized information on their mortgage providers, regardless of the state in which they operate. Consumers will be able to use the system to identify legitimately licensed providers and to avoid bad actors.

Comment: As you most likely already know, while mortgage loan originators who do not work for depository institutions will need to obtain a license, federal law does not require loan originators working for a federally insured depository institution to obtain a license. Later this year, the Conference of State Bank Supervisors (CSBS) will establish the NMLSR. Mortgage loan originators at your bank will have to register with the CSBS NMLSR by the later of 7/31/2010 or a date approved by HUD. The exact date has not yet been established.

Federal Reserve launches Bank Directors Desktop

The Federal Reserve on February 1, 2010, launched a website to help new bank directors learn how they can work to ensure the safety and soundness of their institutions. The website, [.org](#), also provides a refresher course for experienced board members. The Web site is tailored to directors of community banks and features online training and other resources to help directors better understand the issues and challenges associated with serving on a bank's board. The Web site includes links to the "[for Bank Directors](#)" interactive course and the latest edition of [for Bank Directors](#), a guide to directors' roles and responsibilities.

Comment: This is a great source for your bank's directors. I suggest that in your next communication with your directors, you direct them to this informative site.

Mortgage Modification Program: Updated documentation collection; New guidance to expedite permanent modifications

As part of the ongoing housing market stabilization plan, Treasury and HUD released updated guidance for servicers participating in the mortgage modification program. This guidance refines the documentation requirements in order to expedite conversions of current trial modifications to permanent ones. [Directive 10-01](#).^{viii}

Comment: The updated process requires that key documents, including proof of income, be obtained from the borrower before a borrower evaluation begins.

Fed announces Electronic Applications

The Federal Reserve announced the availability of Electronic Applications, or "E-Apps," a new Internet-based system for financial institutions to submit regulatory filings. E-Apps allows firms and their representatives to file applications online. Registered users can access the system at any time to upload additional documents or create new filings. There are no fees for using E-Apps. Institutions ready to start using E-Apps can find a sign up form ^{ix}. Additional information and resources can be found on the [Reserve's Web site](#).^x

Comment: Now, applications, some that are thousands of pages long, can be submitted electronically. Employees of the Fed from around the country can access the applications without having to make and/or send multiple copies. A financial institution must get digital certificates for individuals who file applications with the Fed.

FinCEN: Mortgage fraud SARs high but steady; check fraud increases dramatically

FinCEN released its latest edition of [SAR Activity Review – By the Numbers](#).^{xi} The report's findings indicate some moderation in previously reported suspected fraudulent activities and significant increases in other areas. SAR filings for the first six months of 2009 indicating suspected Mortgage Loan Fraud have risen just one percent from the corresponding period in 2008, yet remain at a historically high level. This follows six straight years of double-digit growth. Activities involving suspected check fraud, including traveler's checks and counterfeit checks,

Governor's budget recommendations, which do not contain additional cuts to state agencies and schools. The Governor believes most social services, public safety programs, and K-12 education cannot sustain additional reductions. To make additional cuts to K-12 will violate the minimum funding requirements for the state to receive ARRA federal funding. The use of federal ARRA funds are contingent on the state funding K-12 education at a floor level equal to the 2006 level of K-12 education funding. Good analysis suggests that state K-12 education funding cannot drop below the 2006 level. Further reductions will cause the potential loss of the federal ARRA funds. ARRA funds end in the middle of the 2011 fiscal year. ARRA funds also created a funding hole in the 2011 budget when federal funds will need to be replaced with state funds. Federal funds helped the state get through last year, but they create a significant problem when they end in late 2010.

How will the session end with a giant hole created by the end of federal funds and declining state revenue? It is most likely the Legislature will struggle for a few weeks with efforts to reduce budgets. The Senate Ways and Means and House Appropriations Committees are working on the Governor's budget recommendations and they must make a budget within existing resources. Therefore, the budgets will be cut by some amount in the absence of additional revenue because no tax bills have passed. The full Legislature will attempt to pass budget reduction bills, and if they can get bills passed, it is likely the Governor will veto them and there is no 2/3 majority to cut budgets. At the same time, the tax committees will be working on tax bills, but it appears none will be able to pass.

By the end of the session, there will likely be no budget and no revenue plan at first adjournment in late March. At that point, the most likely scenario is for the leadership and various coalitions of legislators to begin crafting a means to perhaps make additional budget cuts in conjunction with some combination of revenue enhances. The most likely revenue to be included would be a small sales tax, some tobacco tax, and the elimination of some sales tax exemptions. Exactly in what measure each of those might be included is up for debate.

show significant increases in 2009 across all of the industries required to file SARs.

Comment: Compared to the corresponding time periods from the previous year, depository institutions' Check Fraud SARs increased 19 percent and their Counterfeit Check SARs increased 36 percent. This report contains a compilation of data from SARs filed by depository institutions between April 1, 1996 and June 30, 2009.

FinCEN: Financial institution members of the BSA Advisory Group sought

FinCEN is inviting the public to nominate financial institutions and trade groups for membership on the Bank Secrecy Act Advisory Group (BSAAG). New members will be selected for three-year membership terms. Nominations must be received by February 24, 2010. Applications may be mailed (not sent by facsimile) to Regulatory Policy and Programs Division, Financial Crimes Enforcement Network, P.O. Box 39, Vienna, VA 22183 or e-mailed to: BSAAG@fincen.gov.

Comment: The BSAAG is comprised of high-level representatives from financial institutions, federal law enforcement agencies, regulatory authorities, and others from the private and public sectors. The BSAAG is a public-private sector partnership where participants can engage in open dialogue about the issues facing them related to the protection of the U.S. financial system from money laundering, terrorist financing, and other abuse. The BSAAG makes policy recommendations to the Secretary of Treasury on issues considered at its meetings.

Revisions to the 2010 Call Report

The FFIEC has approved revisions to the reporting requirements for the Call Report for implementation in 2010 (see [-4-2010](#)^{xii}). The revisions incorporate certain modifications made in response to comments received on the proposed changes published in 2009 (see [-47-2009](#)^{xiii}). To assist you in understanding the revisions to the Call Report, drafts of the report forms for March 2010 (which also show the new December-only items for reverse mortgages) and draft instructions for the new and revised Call Report items are available for your review on the [Web site](#)^{xiv}. Additional information is contained in [-4-2010](#). For further information about the reporting revisions, state member banks should contact their Federal Reserve District Bank. National and FDIC-supervised banks should contact the FDIC's Data Collection and Analysis Section in Washington, D.C., by telephone at (800) 688 FDIC (3342) or by e-mail at research@fdic.gov.

Comment: Please forward this FIL-4-2010 to the person responsible for preparing Call Reports at your institution.

ATM skimming devices are alive, well and difficult to detect

The blog [on Security](#)^{xv} recently reported on ATM skimming. The blog included some amazing pictures of ATM skimmers that would have been nearly undetectable by customers. These devices can be homemade or bought over the Internet. Can you spot the fraudulent device? It isn't as easy as you may think. Check out these two Krebs blogs. The second one has a Flash slide show that is particularly revealing. If you have responsibilities involving fraud prevention or safety and security at your bank, I highly recommend you take a look.

[You Have Spotted the Fraud?](#)^{xvi}

[Skimmers, Part II](#)^{xvii}

Comment: Here are ^{xviii} of some additional devices that were posted on the Twitter account of Mikko H. Hyppönen, Chief Research Officer, F-Secure in Helsinki. The pictures include a cell phone that is rigged to take pictures of customers entering their PINs. The author of Krebs on Security was a computer security reporter for the Washington Post from 1995 to 2009.

Regulators Issue joint statement on lending to creditworthy small businesses

The federal financial regulatory agencies and the CSBS issued a ^{xix} emphasizing that financial institutions engaging in prudent small business lending after performing a comprehensive review of a borrower's financial condition will not be subject to supervisory criticism for small business loans made on that basis. The statement builds upon existing guidance, including the [Statement on Meeting the Needs of Creditworthy Borrowers](#)^{xx} issued in November 2008 and the [Statement on Prudent Commercial Real Estate Loan Workouts](#)^{xxi} issued in October 2009.

Comment: While we know that regulators have a tough job to do in these trying economic times, overreacting in ways that discourage lending to creditworthy small businesses only exacerbates the problems. The supervisory expectations expressed in this statement are definitely a move in the right direction.

Enhancements for TARP Community Development Financial Institutions

In October, President Obama announced a new program under the Troubled Asset Relief Program

Banking Legislation

We are watching any future efforts by the Legislature to sweep the fee fund accounts of bankers paid to the Office of the State Bank Commissioner in order to balance the budget on our regulatory costs. At this point in the session, there has been no recommendation to sweep fee fund accounts.

OTHER BILLS WE ARE WATCHING:

House Bill 2608. Office of the State Bank Commissioner Fee Assessments. House Financial Institutions;

Scheduled Hearing: Monday, 2/8/2010

House Bill 2608 enables the office of the state bank commissioner flexibility in the collection of annual assessment fees from state chartered financial institutions. The ability to collect the assessed fees when deemed appropriate by the commissioner allows for the office of the state bank commissioner to budget and plan knowing precisely what dollar amount of funding is arriving and when that funding will be available, without having to deal with the issue of extreme volatility in cash balances of the departments accounts.

State chartered financial institutions accrue for their assessment fee monthly based upon the annual fee that the office of the bank commissioner calculates as being due for the fiscal year for each institution. The financial institutions currently pay the assessment fee semiannually to the office of the state bank commissioner. Financial institutions would not see a reduction, or increase, in assessment fees arising from HB 2608. They would still accrue for the fees as before and the fees would be collected in such installment periods as the commissioner deemed appropriate instead of the current semiannual structure.

House Bill 2609. Purchase of Life Insurance. House Financial Institutions;

Scheduled Hearing: Monday, 2/8/2010

House Bill 2609 concerns banks purchasing life insurance policies on executive officers and directors. The bill clarifies some of the language that the previous legislation contained and most importantly aligns the legislation with the parameters outlined in the interagency statement of the purchase and risk management of life insurance, federal deposit insurance corporation (FDIC) financial institution letter 127-

(TARP) to invest lower-cost capital in Community Development Financial Institutions (CDFIs). Under this program, CDFI banks, thrifts and credit unions – which have been certified by Treasury as targeting more than 60 percent of their small business lending and other economic development activities to underserved communities – would be eligible to receive capital investments at a dividend rate of 2 percent, compared to the 5 percent rate that was offered under the Capital Purchase Program (CPP).

Comment: This is different from the proposal by the Obama Administration for a \$30 billion fund to help community bank provide loans to small businesses. For more information, including how to apply, click .^{xxii}

FDIC: Financial institution management of interest rate risk

The FDIC issued [-2-2010](#)^{xxiii} reminding institutions to not lose focus on their management of interest rate risk (IRR). For a number of institutions, increased loan losses and sharp declines in the value of certain securities portfolios are placing downward pressure on capital and earnings. In this interest rate environment, taking advantage of a steeply upward sloping yield curve by funding longer term assets with shorter-term liabilities may pose risks to an institution's capital and earnings should short-term interest rates rise. This letter clarifies existing IRR guidance.”

Comment: As stated by the FDIC, “Depository institutions are expected to manage IRR exposures using policies and procedures commensurate with their complexity, business model, risk profile, and scope of operations.”

FDIC symposium focuses on exposure to interest-rate risk management

The FDIC held an all-day symposium on January 29, 2010, to hear from a wide range of experts and industry participants on issues that banks across the nation face from potential changes in interest rates. Discussions centered on what types of interest-rate risk might be accumulating in the banking system, as well as what steps should be taken to defuse them. Click ^{xxiv} to go to the Web page for the symposium. Presentations are in the [Agenda](#).^{xxv} /[On Demand Video](#).^{xxvi}

Collection actions after notification of bankruptcy can result in damages award

In the bankruptcy case of [RE COLLIER](#)^{xxvii}, Mr. Collier bought items on credit from Hill’s

confirmation of the bankruptcy and that his debt was included. Mr. Hill hired an attorney who sent a demand letter to Mr. Collier’s attorney. Three weeks later, Mr. Hill posted a sign outside his business stating that Mr. Collier owed him the money and needed to pay him. The sign remained there for 21 days until a preliminary injunction was entered prohibiting the sign. The court determined that the letter and sign were demands for payment of the pre-petition debt in violation of the automatic stay. The court awarded Mr. Collier actual damages of \$18,820, punitive damages of \$3,000, court costs and if necessary, \$500 per day for any additional stay violation.

Comment: Admittedly, posting a sign urging payment is egregious. However, the punitive damages were only \$3,000. The actual damages consisted of attorneys’ fees and expenses of \$16,000, \$1,320 in lost wages, and \$1,500 for emotional distress. So, if your bank were to violate an automatic stay causing the debtor to incur attorneys’ fees and miss work, the award could be substantial even without some egregious act by your bank.

PUBLICATIONS, REPORTS, STUDIES, TESTIMONY & SPEECHES

- **FDIC Chair testifies on causes of the financial crises before Financial Crisis Inquiry Commission**

On January 14, 2010, Sheila C. Bair, Chairman, FDIC read a [statement](#) on the causes and current state of the financial crisis before the Financial Crisis Inquiry Commission. The Chairman of the SEC also read a [statement](#)^{xxviii} at the hearing.

- **FedFocus**

^{xxix}, lead article is about the Fed’s focus on Phase 2 of the [@ Funds Service](#)^{xxx} format changes that will support extended-character business remittance information, provide an improved solution for cover payments and support other changes. If you access the Fedwire Funds Service via FedLine Direct® or FedLine Advantage® access solution, it is time to plan for Phase 2. The [Survey of Consumer Payment Choice](#)^{xxxi} states what consumers rate as the two most important characteristics of payment instruments. (The answer is in the comment below.)

Comment: Implementation of the Fedwire Funds Service message format changes will not be implemented any earlier than November 2010. Security and ease of use are the characteristics

2004, effective December 7, 2004. This alignment with the language from FDIC is important to our state chartered financial institutions in that they can be assured of compliance with both state regulations and federal regulations without having to constantly refer to two separate sets of rules that might differ.

Our state chartered financial institutions have the option of many different types of regulated investments that they may purchase for the benefit of their institutions. House Bill 2609 does not expand that list of available options but it does make the option of purchasing life insurance, from highly rated insurance companies, a more viable option for our financial institutions.

[Senate Bill 239. Establishes the Kansas rural risk bank loan guarantee program. Senate Financial Institutions Committee. Hearing held, remains in Committee.](#)

The program would authorize the State Treasurer to provide loan guarantees against risk of default for rural development projects with rural developers for the renovation or construction of commercial, manufacturing, or value-added agricultural facilities or equipment. The total principal amount of outstanding loan guarantees for any single borrowing organization could not exceed \$3.0 million and the total outstanding amount of all loan guarantees for borrowing organizations could not exceed \$15 million. The bill would also establish the Rural Risk Bank Loan Guarantee Review Committee within the office of the State Treasurer. SB 239 also creates the Rural Risk Bank Loan Guarantee Fund that would receive all fees and charges for the purposes of implementing the program.

The bill was in response to entrepreneurs who were reporting that banks are increasingly reluctant to loan funds for buildings in very rural areas. Their costs of construction often exceed their value as collateral, therefore banks elevate their pricing or fail to loan because if the business doesn't survive, there may not be another use in the community for the building. The proposed solution is for the legislature to authorize a loan guarantee program to encourage lending in rural areas to entrepreneurial ventures so that local banks can be involved and innovative

of payment instruments that consumers rate as the most important.

OCC: Revised Fair Lending booklet

The OCC recently revised the electronic version of the "[Fair Lending](#)" booklet of the [Comptroller's Handbook](#). These revisions include both new and revised procedures. Some procedural sections were renamed and some procedural steps were renamed and reordered. Specific changes were made to the Examination Procedures for Setting the Examination Scope, Examination Procedures for Assessing Fair Lending Performance, and relevant appendixes. These changes relate to the discussion of brokers and to procedures related to pricing, steering, and redlining. Other changes include: Regulation B that relate to electronically accessed application forms and disclosures added to the Technical Compliance Checklist, Appendix L, Appendix J, addition of risk indicators for Servicing/Loss Mitigation processes and HELOC Modification activities to the examination scope section, and the addition of Appendix O, the April 15, 1994, interagency statement, "[Statement on Discrimination in Lending](#)".^{xxxii}

Last, as a result of the Financial Services Regulatory Relief Act of 2006, OCC examiners may ask for the results and findings of bank performed self-tests. The act at 12 USC 1828(x) allows banks to share such confidential information with their federal regulatory agency during supervisory activities without waiving, destroying, or otherwise affecting that privilege relating to third parties. Reviewing this data may allow examiners to streamline fair lending examinations.

- **FedFlash**

Each ^{xxxiii} bulletin keeps you informed of issues regarding your day-to-day operations, providing you with National and District updates regarding the Fed's products and services, processes, technical protocols and contact information.

Important upcoming compliance dates:

- 02.22.2010 [Z](#)^{xxxiv} – 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.
- 02.27.2010 [CC](#)^{xxxv} -- 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.
- 03.31.2010 [program expires](#).^{xxxvi}
- 04.01.2010 [Z](#)^{xxxvii} – Escrow on higher priced loans (Specifically, [CFR 226.35\(b\)\(3\)](#)^{xxxviii} is effective April 1, 2010.)
- 06.01.2010 [GG \(Prohibition on Funding of Unlawful Internet Gambling\)](#)^{xxxix} –. 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. [GG \(Extension of compliance date\)](#)^{xi}
- 06.30.2010 TAG program expires.
- 07.01.2010 [Z](#)^{xli} – 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 [Z and Reg. AA \(Unfair or Deceptive Practices\)](#)^{xlii} – 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 [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.

companies can locate in rural areas.

The rural risk bank loan program will take advantage of the strong community banks in rural Kansas to assist to provide financing for rural development projects including the renovation or construction of commercial, manufacturing or value-added agricultural facilities and equipment in rural areas.

Senate Bill 415. Municipal bond rates; idle funds. Senate Financial Institutions Committee. Hearing held, but bill remains in committee.

Senate Bill 415 would make changes to both general bond law and to provisions regarding the investment of idle funds. The proposed changes would allow municipalities to invest their bond proceeds in obligations guaranteed by the United States. It would further allow municipalities to invest idle funds in general obligation bonds issued by other Kansas governmental entities – this would make the investment statute parallel the bonds proceeds statute.

Wrap Up

If you have any questions or issues, please do not hesitate to contact me.

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- 07.01.2010 [Act \(Fair and Accurate Credit Transactions Act\)](#)^{xliii} – Those furnishing consumer information to a consumer reporting agency must establish reasonable policies and procedures for implementing the guidelines in Appendix E.
- 10.01.2010 Reg Z – Higher priced mortgage loan escrow for manufactured homes (See Reg Z changes for 04.01.2010)
- 01.01.2011 [Act](#)^{xliv} – 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 [deposit insurance](#)^{xlv} temporary limit increase to \$250,000 expires.
- Compliance dates from the not-so-distant past:**
- 02.14.2010 [Z](#)^{xlvi} – Amendments revising the disclosure requirements for private education loan become mandatory.
- 01.19.2010 [Z](#)^{xlvii} – 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 [X \(RESPA\)](#)^{xlviii} – 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 [DD \(Truth-in-Savings\)](#)^{xlix} – 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 [S](#)^l – 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 [\(Model Privacy Form\)](#)^{li} – 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.** [GG \(Unlawful Internet Gambling Act\)](#)^{lii} – Must send required notice to existing customers. Must perform due diligence at account opening and have procedures for dealing with violations.
- 10.01.2009 [C \(HMDA\)](#)^{liii} – Loans requiring a rate spread must use Reg. Z’s new higher priced loan definition.
- 10.01.2009 [Z \(TIL\)](#)^{liv} – 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 [International ACH Transaction \(IAT\) rule](#)^{lv} requiring all international ACH payments to be uniquely identified.

Comment: Distribute these calendars to your CEO, CFO, Compliance Officer, and Operations Officer.

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- i http://www.tlta.com/documents/Breaking_News/RESPA_FAQ_11th_Installment_012910.pdf
- ii http://www.ffiec.gov/exam/Mtg_Fraud_wp_Feb2010.pdf
- iii http://www.ffiec.gov/exam/3p_mtg_fraud_wp_oct04.pdf
- iv http://www.fdic.gov/news/news/press/2010/onewest_lossshare.html
- v http://www.fdic.gov/news/news/press/2010/onewest_lossshareb.html
- vi <http://www.thinkbigworksmall.com/mypage/player/tbws/23088/1470509>
- vii <http://www.thinkbigworksmall.com/mypage/archive/1/32275>
- viii https://www.hmpadmin.com/portal/docs/hamp_servicer/sd1001.pdf
- ix <http://www.federalreserve.gov/bankinforeg/eappssignup.htm>
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