



January 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
[@cbak.com](mailto:cbak.com) * [.cbak.com](http://cbak.com)



CBA 2010 LEGISLATIVE RECEPTION

Monday
February 8, 2010

Capitol Plaza
Hotel

1717 SW Topeka Blvd.
Topeka, KS

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

Final Rule: Fed and FTC issue Fact Act rules on risk-based pricing notices

On January 15, 2010, the Federal Reserve and the FTC published [rules](#)ⁱ in the Federal Register (75 FR 2724). The rules 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. Consumers who receive this "risk-based pricing" notice will be able to obtain a free credit report to check the accuracy of the report. The final rules provide creditors with several methods for determining which consumers must receive risk-based pricing notices. As an alternative to providing risk-based pricing notices, the final rules permit creditors to provide consumers who apply for credit with a free credit score and information about their score. The final rules implement section 311 of the Fair and Accurate Credit Transactions Act of 2003, which amends the Fair Credit Reporting Act. The final rules are effective January 1, 2011.

Comment: It may be difficult to determine which consumers should receive the notice. You should begin developing systems and procedures to incorporate these new notice requirements, provide employee training, and modify model notices to comply with the final rule.

HUD issues another RESPA FAQs update

The [FAQs](#)ⁱⁱ, which were update on November 19, 2009, were updated again on December 30, 2009.

Comment: The update is not substantial. HUD posted the Settlement Cost Booklet on its website and stated this in an FAQ. The other change pertains to the written list of providers on the GFE (question number 8). HUD highlighted the changes by putting them in bold font.

Business journal reports that small banks lack loan workout expertise

In an article in the [Business Journal](#)ⁱⁱⁱ, it is reported that about 10 percent of Georgia's banks do not have the capacity to work out their most serious loan problems. The article points out that the next wave of loan problems will be commercial real estate such as retail centers and small office buildings.

Comment: Though this article was specifically about small banks in the hard hit state of Georgia, its message is relevant to any bank dealing with loan problems. The message is that small banks:

- *are harder hit than the big guys when a large loan fails.*
- *don't typically have employees who are qualified to handle the worst loan problems.*

Legislative Briefing:

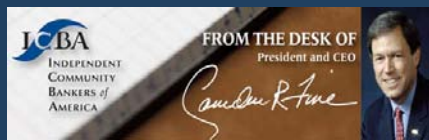
4:30 p.m. - 5:00 P.M.

Reception:

5:00 p.m. - 7:00 P.M.

- Socialize with other Kansas bankers.
- Get acquainted or reacquainted with your legislators.

Show our statewide strength and help us build the image for community bankers.



Fine Points

By Camden R. Fine
President and CEO of ICBA

We're Not Fighting for Status Quo

*"In war, truth is the first casualty."
--Aeschylus,*

Congress is the battlefield where ideas and interests compete for government backing. Often the laws of Congress, shaped by compromise, bring about no outright winners. But now and then, when America's electorate clamors for concrete change, the legislative process becomes a zero-sum game.

- need to get ahead of problem loans by engaging their borrowers and retaining competent work-out specialists.

The demise of non-local checks

February 27, 2010, is the effective date for the [rule](#)^{iv} amending the routing numbers guide to next-day availability checks and local checks in Regulation CC to delete the reference to the head office of the Federal Reserve Bank of Atlanta and to reassign the Federal Reserve routing symbols currently listed under that office to the head office of the Federal Reserve Bank of Cleveland. 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 non-local.

Comment: The Board is providing notice of the amendments at this time to give affected banks ample time to make any needed processing changes. Early notice also will enable affected banks to amend their availability schedules and related disclosures if necessary and provide their customers with notice of these changes. Section 229.18(e) of Regulation CC requires that banks notify account holders who are consumers within 30 days after implementing a change that improves the availability of funds.

Call Report for Fourth Quarter 2009

The links at the end of this paragraph pertain to the Call Report for the December 31, 2009, report date. Please plan to complete the preparation, editing, and review of your bank's Call Report data and the submission of these data to the agencies' Central Data Repository (CDR) as early as possible. If you later find that certain information needs to be revised, please make the appropriate changes to your data and promptly submit the revised data file to the CDR. Except for certain banks with foreign offices, your completed Call Report must be received by Saturday, January 30, 2010, in accordance with the filing requirements discussed below. No extensions of time for submitting Call Report data are granted. [-76-2009](#).^v [Instructions](#).^{vi}

Comment: Starting your preparation early will aid you in identifying and resolving any edit exceptions prior to the submission deadline.

FDIC hosts symposium on interest rate risk

On January 29, 2010, the FDIC will host a day-long ^{vii} to discuss issues and strategies available to financial institutions for managing their exposures to interest rate risk (IRR). Participating in the symposium will be bankers, experts and supervisors from all financial sectors to outline ways that banks can enhance IRR planning and better manage risks. The symposium will take place at the FDIC's Arlington, Va., facility, but it will be Webcast simultaneously. To request an invitation, contact N. Michelle Rose at (202)898-7204 or [@fdic.gov](#).

Comment: With a historically steep yield curve and low short-term interest rates, it is vital for institutions to have adequate processes for measuring and mitigating risks posed by potential changes in rates.

Federal financial supervisory agencies release advisory on managing interest rate risk

The federal banking supervisory agencies released an ^{viii} reminding depository institutions of supervisory expectations for sound practices in managing interest rate risk. This advisory, adopted along with the other financial regulators, reiterates the importance of effective corporate governance, policies and procedures, risk measuring and monitoring systems, stress testing, and internal controls related to the interest rate risk exposures of depository institutions. It also clarifies elements of existing guidance and describes interest rate risk-management techniques used by effective risk managers.

Financial institutions should identify, measure, and address appropriate actions to control interest rate risk. If an institution determines that its core earnings and capital are insufficient to support its level of interest rate risk, it should take steps to mitigate its exposure, increase its capital, or both. Bank holding companies are reminded of

That's where the historic financial regulatory-reform legislation stands. As the Senate Banking Committee takes up the legislation near where the House of Representatives left off, the megabanks, giant Wall Street firms and shadow nonbank financial players find themselves on the wrong side in a high-stakes win-or-lose policy fight. They want to preserve the status quo to continue their disproportionately lighter regulation and de facto government safety net against failure. But they and their lobbyists also know that ICBA and community bankers have overwhelming congressional and public support to end too-big-to-fail and rein in the unregulated shadow financial-services companies.

ICBA's priority measures—imposing stricter capital and liquidity standards for megabanks, establishing a process to wind down failed financial megafirms and creating a systemic-risk reserve fund—will promote a safer financial system. Those measures, and others such as adopting equitable risk-based deposit-insurance assessments, will also foster a more level playing field that has tilted hard against community banks for far too long.

Democrats and Republicans in Congress generally accept ICBA's main policy goals for financial reform. And they widely agree that legislative remedies for too-big-to-fail and unequal regulatory treatment should not affect community banks, which is historic high ground for us. What's left to debate are the details—and that is the tough part.

With so much in the balance, the megabank, Wall Street and nonbank lobbies hope to avoid full-blown financial reform directed squarely at them. They would rather substitute the appearance of reform and downplay or distract the debate from the genuine threats posed by too-big-to-fail and rogue nonbank financial players. To do that, they need enough community bankers to be willing to accept something less.

supervisory expectations that they should manage and control aggregate risk exposures, including interest rate risk, on a consolidated basis, while recognizing legal distinctions and possible obstacles to cash movements among subsidiaries.

Comment: Adequate and effective management of interest rate risk are critical factors in regulators' evaluation of an institution's sensitivity to changes in interest rates and capital adequacy. Material weakness in risk management or high levels of interest rate risk will require corrective action.

Annual adjustment to the CRA asset-size thresholds

The OCC, the Board, the FDIC, and the OTS are amending their CRA regulations to adjust the asset-size thresholds used to define “small bank” or “small savings association” and “intermediate small bank” or “intermediate small savings association.” As required by the CRA regulations, the adjustment to the threshold amount is based on the annual percentage change in the Consumer Price Index. The effective date was January 1, 2010. [Release](#).^{ix} [final rule](#).^x

Fed: Annual notice of asset-size exemption threshold under Reg C

The Federal Reserve Board published its annual notice of the asset-size exemption threshold for depository institutions under Regulation C, which implements HMDA. The asset-size exemption for depository institutions will remain \$39 million based on the annual percentage change in the Consumer Price Index for Urban Wage Earners and Clerical Workers for the twelve-month period ending in November 2009. As a result, depository institutions with assets of \$39 million or less as of December 31, 2009, are exempt from collecting data in 2010. [Release](#).^{xi} [Fed Reg 68498](#).^{xii}

Comment: An institution's exemption from collecting data in 2010 does not affect its responsibility to report the data it was required to collect in 2009.

FFIEC: Updated examination procedures on Reg DD issued

The Task Force on Consumer Compliance of the FFIEC recently approved [examination procedures](#)^{xiii} for Regulation DD (Truth in Savings). The updated procedures incorporate regulatory changes to Regulation DD that address depository institutions' disclosure practices related to overdrafts ([Federal Register 5584](#)),^{xiv} as follows:

- Disclosure of Aggregate Overdraft Fees. The final rule (effective date January 1, 2010) extends to all institutions the requirement to disclose on periodic statements the aggregate dollar amounts charged for overdraft fees and for returned item fees (for the statement period and the year-to-date).
- Disclosure of Balance Information. The final rule requires institutions that provide account balance information through an automated system to provide a balance that does not include additional funds that may be made available to cover overdrafts.

OCC: New examination procedure on Protecting Tenants at Foreclosure Act of 2009

See [examination procedures](#)^{xv} for the Tenants Protection Act of 2009, which requires notices and other protections to tenants in the event of a foreclosure.

Comment: The Protecting Tenants at Foreclosure Act protects tenants from eviction because of foreclosure on the properties they are renting. These provisions took effect on May 20, 2009, and will expire on December 31, 2012. The tenant protection provisions apply in the case of any foreclosure on a “federally related mortgage loan” or on any dwelling or residential real property. They provide that “any immediate successor in interest” in such a foreclosed property, including a bank that takes title to a house upon foreclosure, will assume the interest subject to the rights of any bona fide tenant and will need to comply with certain notice requirements.

FINAL RULE: Fed approves final rule amending Reg Z on credit cards

On January 12th, the Federal Reserve Board approved a [rule](#)^{xvi} amending Reg. Z regarding credit card practices. Credit card issuers must comply with most aspects of the rule beginning on February 22. Among other things, the rule:

So they've spread the message that financial reform would mean new restrictions or costs for community banks. They want to spread doubt and fear in the community banking industry, so that community banks will become their unwitting allies in defeating real and meaningful reform of the destructive Wall Street practices that got us all in this mess to begin with.

ICBA is working for financial reform to ensure that the regulatory system treats all financial institutions the same. That means upending the current system rigged with regulatory advantages and tacit government subsidies for megabanks and other Wall Street nonbank financial firms.

The stakes here are enormous—for community banks, for everyday Americans and for our country. ICBA has not endorsed any final financial-reform legislation to date, because there is much more to accomplish before the job is done. Yet we've achieved tremendous, even historic, victories in shaping pieces of the legislation so far. In the months ahead, issues will flare up over individual amendments or sections of the financial reform bill as the legislation moves forward. New threats and skirmishes may require a fast grassroots response.

Let's remember to stay focused on our main objectives. Community banks can't afford to settle for the status quo, as others are working to preserve—the status quo will doom Main Street. And that's simply not an option that ICBA will ever accept.

Camden R. Fine is president/CEO of ICBA. Reach him at cam.fine@icba.org.

- Generally prohibits increases in a rate during the first year after an account is opened and increases in a rate that applies to an existing credit card balance.
- Prohibits creditors from issuing a credit card to a consumer who is younger than the age of 21 unless the consumer has the ability to make the required payments or obtains the signature of a parent or other cosigner with the ability to do so.
- Requires creditors to obtain a consumer's consent before charging fees for transactions that exceed the credit limit.
- Limits the high fees associated with subprime credit cards.
- Bans creditors from using the "two-cycle" billing method to impose interest charges.
- Prohibits creditors from allocating payments in ways that maximize interest charges.

In December 2008, the Federal Reserve adopted final regulations regarding credit card practices and disclosures consumers receive in connection with credit card accounts. This rule amends aspects of those regulations to implement provisions of the Credit Card Accountability Responsibility and Disclosure Act of 2009 (Credit Card Act), which was enacted in May 2009.

The final rule represents the second stage of the Federal Reserve's implementation of the Credit Card Act. On July 15, 2009, the Board issued an interim rule implementing the provisions of the Credit Card Act that went into effect on August 20, 2009. In addition to finalizing that interim rule, this rule implements the provisions of the Credit Card Act that go into effect on February 22, 2010. The remaining provisions of the Credit Card Act go into effect on August 22, 2010 and will be implemented by the Federal Reserve at a later date.

You and your customers can get an overview of the changes by accessing a new online publication. " [You Need to Know: New Credit Card Rules](#)."^{xvii}

Comment: The Fed has prepared a document ([and College Credit Card Agreement Submission](#)^{xviii}) that provides technical specifications for complying with the initial submission requirements of sections 204 and 305 of the Credit Card Act of 2009 and 12 C.F.R. §§ 226.57(d) and 226.58. These provisions require card issuers to submit to the Board of Governors of the Federal Reserve System ("Board"):

- *agreements between the issuer and a consumer under a credit card account for an open-end (not home-secured) consumer credit plan ("consumer agreements"); and*
- *an annual report regarding any college credit card agreement to which the issuer is a party ("college agreements").*

Financial regulators propose guidance on reverse mortgage products

The FFIEC, on behalf of its members, released [guidance](#)^{xix} today on reverse mortgage products. The proposed guidance focuses on the need for banks, thrifts and credit unions to provide clear and balanced information to consumers about the risks and benefits of these products. The proposed guidance also states that institutions should require that consumers receive qualified independent counseling and take steps to avoid any appearance of a conflict of interest. The proposed guidance addresses related policies, procedures, internal controls, and third-party risk management. Comments must be received 60 days (February 16, 2010) from publication in the Federal Register.

Comment: Instructions for submitting a comment are on page two of the proposed guidance.

Treasury: Fact sheet on Financial Crisis Responsibility Fee

The Treasury issued a [sheet](#)^{xx} on the proposed Financial Crisis Responsibility Fee to prevent the TARP program from adding to the deficit.

Comment: This proposed fee would not apply to community banks. Instead, it would be levied on the debts of financial firms with more than \$50 billion in consolidated assets.

PUBLICATIONS, REPORTS, STUDIES, TESTIMONY & SPEECHES

From the Top

By R. Michael S. Menzies Sr.

“Why would you do that?”

I hear this question from community bankers who have the mistaken impression that ICBA supports the Consumer Financial Protection Agency proposed in Congress’s financial regulatory-reform bills.

The short, honest and important answer is – we don’t.

From the start of debate on financial regulatory reform, ICBA member leaders have made clear our position in congressional testimony, in letters to lawmakers, in op-eds, in media interviews, in talks with administration and agency leaders: Community banks do not want another agency that would only increase our regulatory burdens.

We’ve made it clear that the best way to protect consumers is to address the overleveraged, too-big-to-fail firms whose concentration risks have cost taxpayers more than \$7 trillion. Congress should also address the many nonbank financial institutions that are unencumbered by most forms of regulation or accountability.

We’ve made it clear that bank regulators have expertise in balancing safe and sound operations with the requirement to inform consumers and protect them from abusive practices. Having two agencies handle enforcement would only give each agency half the information it needs, undermining both parts of a bank’s exam.

That’s the short answer. Here’s the longer one: Recognizing that the winds of Washington are blowing in favor of adding consumer safeguards while making banks and other financial companies more accountable, we stayed at the negotiating table to ensure that policymakers understood the difference between Wall Street and Main Street. We did not want one-

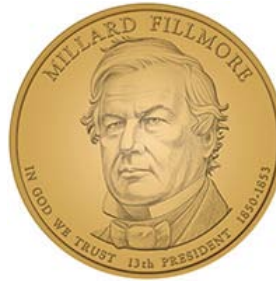
- **Free brochure informs customers on how to avoid overdraft fees.**

The Federal Reserve Board has published a brochure to teach consumers how to avoid overdraft and bounced-check fees payments. Your customers can also learn about creating an overdraft protection plan. The Fed has provided a [file](#)^{xxi} for printing 8½ x 14 inch pages. For other consumer information brochures from the Fed, click [.xxii](#) If you would prefer to order preprinted copies, click [.xxiii](#)

Comment: Most community banks have dealt fairly with consumers with respect to overdrafts and bounced checks, but there has been a lot of abuse. Unfortunately, consumers, consumer activists, regulators, and elected officials do not always distinguish between community banks and the banks with abusive overdraft practices when addressing the problem. Place copies of this brochure in your lobbies, hand it out to every customer opening a new account, link to it on your online banking website, and use it as a statement stuffer.

- **FedFlash: December 2009 and January 2010**

Subjects of December’s FedFlash include: Federal Reserve Banks announce price change for the Fed Funds Checks Service; Special order period and distribution schedule for presidential \$1 coins; Not Our Item cash letter requirements; Check Adjustments Webinar series continues in 2010; and Pricing of check adjustments request and documents-to-follow effective January 2010. The January issue includes: A reminder to electronic access solutions customers to keep their hardware and software updates current; A new requirement for processing confirmation requests for audit entities; A reminder of the Fed’s modified availability on all paper check deposits; A resource to assist in completing an adjustments request; and the new Millard Fillmore \$1 coin (pictured below).



- **Free updated brochure educates consumers on mortgage settlement costs**

This updated brochure from the Fed describes the various closing costs associated with purchasing a home. Includes settlement costs work sheet. You can order a maximum of 100 free copies each year from the Fed. If you want over 100 copies, the cost is \$25 per 100 copies (25 cents ea.). The brochure is 28 pp. Click [xxiv](#) to order your copies. The Fed has also provided a PDF file for printing your own copies on 8½ x 11 paper.

Comment: Informing consumers on mortgage settlement costs is difficult under the best of circumstances. This brochure does a good job at simplifying this complex issue and assisting prospective borrowers in shopping for loans. I suspect however that many borrowers, although making the single largest purchase of their entire lives, will not have the patience to read even this short brochure. You can lead a horse to water...

- **OCC 2009 Annual Report**

The [2009 Annual Report](#)^{xxv} highlights the agency's role in the government-wide effort to restore safety and soundness to the financial system. Other sections of the Report focus on the OCC's finances, management, and consumer protection activities.

- **FDIC’s Winter issue of Supervisory Insights**

The Winter issue of the [Supervisory Insights](#)^{xxvi} features three articles: “Nowhere to Go but Up: Managing Interest Rate Risk in a Low-Rate Environment” describes how banks are becoming more liability sensitive and vulnerable to increases in short-term rates. “Not Just Adding Up the Numbers: Achieving CRA Objectives in Challenging Times” discusses the goal of the Act in the context of the current weak economic environment and highlights procedures for appropriately evaluating the quality of large- and small-

size-fits-all legislation unfairly and unnecessarily penalizing community banks.

We won crucial bipartisan support for measures that would ...

- make the deposit-insurance-assessment system fairer for community banks,
- establish tougher capital and liquidity standards on too-big-to-fail banks and ensure that they create a prepaid \$150-billion resolution fund,
- plug the ILC loophole to maintain the separation of banking and commerce and
- for the first time, recognize in law that large credit unions should be regulated as banks.

As a result, the House made critical improvements to its CFPA proposal. As passed, the bill would exempt banks with less than \$10 billion in assets from the CFPA's primary exam and enforcement authority and from agency fees. The bill also excludes the "plain-vanilla product" and "reasonableness" requirements and removes the Community Reinvestment Act from CFPA jurisdiction.

Lawmakers also agreed to have the CFPA establish a special unit to ensure that community banks are not disproportionately affected by CFPA regulations. They clarified that CFPA provisions create no new private rights of action. They pledged to repeal the exclusion of thrift deposits from the 10-percent deposit-concentration cap.

ICBA is working to avoid new regulations on community banks and to make further improvements to financial-reform legislation. Naturally, megabanks and nonbanks that until now have had all the advantages vigorously opposed these measures and ICBA's efforts to bring real balance to our financial-services system.

In sum, ICBA has not endorsed any final legislation. ICBA has not

bank lending programs. "Customer Information Risk Assessments: Moving Toward Enterprise-wide Assessments of Business Risk" discusses three approaches to risk assessments, identifies potential shortcomings, and describes appropriate regulatory responses.

Comment: In the Summer 2009 Supervisory Insights, the FDIC reported that lenders would need to consider the balloon payment in determining repayment ability for a higher priced mortgage loan (HPML) with a balloon of less than seven years. The FRB then responded to questions regarding compliance with the underwriting standard on these loans. See FRB [Letter 09-12](#)^{xxvii} The Winter 2009 issue of the FDIC's Supervisory Insights reports on the FRB's response.

The FRB clarified its "ability to repay" requirement as it relates to the balloon payment of a short-term, HPML. A creditor has satisfied that a consumer has the ability to repay a loan if the creditor has verified the consumer's ability to make regular monthly payments and verified that the consumer likely would be able to satisfy the balloon payment obligation by refinancing the loan or through income or assets other than the collateral. As reported in the November issue of Capitol Comments, the FRB issued written guidance to its examiners clarifying Reg. Z's "repayment ability" standard as it applies to balloon mortgage loans.

We believe that discussions state and national independent bankers associations had with the FRB are responsible for the issuance of this clarification.

- **Fed's Beige Book published**

Reports in the January 13, 2010, [Book](#)^{xxviii} indicated that while economic activity remains at a low level, conditions have improved modestly, and those improvements are broader geographically than in the last report. Ten Districts reported some increased activity or improvement in conditions, while the remaining two--Philadelphia and Richmond--reported mixed conditions. The last Beige Book reported eight Districts with increased activity or improving conditions and four Districts showing little change and/or mixed conditions. Most Districts reported that consumer spending in the recent 2009 holiday season was slightly greater than in 2008, but still far below 2007 levels. ^{xxix}

Comment: Most Districts continued to see declining or weakened loan demand. A number of Districts reported that credit quality continued to deteriorate. Financial institutions in the New York District reported ongoing increases in delinquencies for all types of loans. Banks in the Philadelphia District reported that delinquencies and defaults continued to rise for all types of loans, although less sharply than at the time of the previous Beige Book. Cleveland received reports of steady consumer credit quality but high and rising commercial loan delinquencies. Kansas City noted year-over-year declines in credit quality among financial institutions in the District, and Dallas and San Francisco reported continued deterioration at financial institutions in their Districts.

- **Fed report on why the Fed should have a role in bank supervision and regulation**

The Federal Reserve presented a [report](#) to the Committee on Banking, Housing, and Urban Affairs setting out why its role in bank supervision and regulation should continue. The report discusses: 1) how the expertise and information that the Federal Reserve develops in the making of monetary policy enables it to make a unique contribution to an effective regulatory regime, especially in the context of a more systemic approach to consolidated oversight; and (2) how active involvement in supervising the nation's banking system allows the Federal Reserve to better perform its critical functions as a central bank.

- **FDIC Chair testifies 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](#)^{xxx} at the hearing.

wavered in opposing the CFPA or other new regulatory burdens. We did choose to improve legislation as it progresses through Congress to benefit community banks.

Don't equate our unprecedented progress with any endorsement or support. We're not done yet.

R. Michael S. Menzies Sr. is ICBA chairman and the president / CEO of Easton Bank and Trust Co. in Easton, Md.

Important upcoming compliance dates:

- 02.14.2010 [.Z^{xxxvi}](#) – Amendments revising the disclosure requirements for private education loan become mandatory.
- 02.22.2010 [.Z^{xxxvii}](#) – 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.
- 03.31.2010 [program expires.](#)^{xxxviii}
- 04.01.2010 [.Z^{xxxix}](#) – Escrow on higher priced loans (Specifically, [CFR 226.35\(b\)\(3\)](#)^{xxxix} is effective April 1, 2010.)
- 06.01.2010 [GG \(Prohibition on Funding of Unlawful Internet Gambling\)](#)^{xxxvi} – 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 \(Extension of compliance date\)](#)^{xxxvii}
- 06.30.2010 TAG program expires.
- 07.01.2010 [.Z^{xxxviii}](#) – 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 Reg. Z Rule that are not requirements of the Credit Card Act.
- 07.01.2010 [Z and Reg. AA \(Unfair or Deceptive Practices\)](#)^{xxxix} – A lender may not consider a credit card payment late unless statement is provided 21 days prior to due date. Requirements on how credit card 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.
- 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](#)^{xl} – 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](#)^{xli} temporary limit increase to \$250,000 expires.

Compliance dates from the not-so-distant past:

- 01.19.2010 [.Z^{xlii}](#) – 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 \(RESPA\)](#)^{xliii} – 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 \(Truth-in-Savings\)](#)^{xliv} – 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](#)^{xlv} – 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 [\(Model Privacy Form\)](#)^{xlvi} – 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 \(Unlawful Internet Gambling Act\)](#)^{xlvii} – 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 \(HMDA\)](#)^{xlviii} – Loans requiring a rate spread must use Reg. Z's new higher priced loan definition.
- 10.01.2009 [.Z \(TIL\)](#)^{xlix} – 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](#)¹ 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://edocket.access.gpo.gov/2010/pdf/E9-30678.pdf>

ⁱⁱ <http://www.hud.gov/offices/hsg/ramh/res/resparulefaqs.pdf>

ⁱⁱⁱ <http://atlanta.bizjournals.com/atlanta/stories/2010/01/04/story8.html?b=1262581200^2660311&page=2>

^{iv} <http://www.bankersonline.com/topstory/75fedreg/75FR219.txt>

^v <http://www.fdic.gov/news/news/financial/2009/FIL-76-2009.pdf>

^{vi} <http://www.fdic.gov/news/news/financial/2009/fil09076a.pdf>

^{vii} http://www.fdic.gov/news/conferences/symposium_irr_meeting.html

^{viii} <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20100107.pdf>

^{ix} <http://www.fdic.gov/news/news/press/2009/pr09240.html>

^x <http://www.fdic.gov/news/news/press/2009/pr09240a.pdf>

^{xi} <http://www.federalreserve.gov/newsevents/press/bcreg/20091222a.htm>

^{xii} <http://edocket.access.gpo.gov/2009/pdf/E9-30603.pdf>

^{xiii} <http://www.federalreserve.gov/boarddocs/caletters/2009/0914/09-14-attachment.pdf>

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- xiv http://frwebgate.access.gpo.gov/cgi-bin/getpage.cgi?position=all&page=5584&dbname=2009_register
- xv <http://www.occ.treas.gov/ftp/bulletin/2010-2a.pdf>
- xvi <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20100112a1.pdf>
- xvii <http://www.federalreserve.gov/consumerinfo/wyntk/creditcardrules.htm>
- xviii <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20100112a4.pdf>
- xix <http://www.ffiic.gov/guidance/ReverseMortgageGuidance12-17-09.pdf>
- xx <http://www.treas.gov/press/releases/tg506.htm>
- xxi <http://www.federalreserve.gov/pubs/bounce/bounce.pdf>
- xxii <http://www.federalreserve.gov/pubs/brochure.htm>
- xxiii <http://www.federalreserve.gov/pubs/order.htm>
- xxiv <https://www.newyorkfed.org/publications/OrderInfo.cfm>
- xxv <http://www.occ.treas.gov/annrpt/annual.htm>
- xxvi http://www.fdic.gov/regulations/examinations/supervisory/insights/siwin09/si_win09.pdf
- xxvii <http://www.federalreserve.gov/boarddocs/caletters/2009/0912/caltr0912.htm>
- xxviii <http://www.federalreserve.gov/fomc/beigebook/2010/20100113/FullReport.htm>
- xxix <http://www.federalreserve.gov/fomc/beigebook/2010/20100113/default.htm>
- xxx <http://www.sec.gov/news/testimony/2010/ts011410mls.htm>
- xxxi <http://www.federalreserve.gov/newsevents/press/bcreg/20090730a.htm>
- xxxii <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20100112a1.pdf>
- xxxiii <http://www.federalreserve.gov/monetarypolicy/20090817a.htm>
- xxxiv <http://edocket.access.gpo.gov/2008/pdf/E8-16500.pdf>
- xxxv <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>
- xxxvi <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20081112a1.pdf>
- xxxvii <http://edocket.access.gpo.gov/2009/E9-28746.htm>
- xxxviii <http://edocket.access.gpo.gov/2009/pdf/E8-31185.pdf>
- xxxix <http://edocket.access.gpo.gov/2009/pdf/E8-31186.pdf>
- xl <http://edocket.access.gpo.gov/2010/pdf/E9-30678.pdf>
- xli <http://www.fdic.gov/deposit/deposits/difactsheet.html>
- xlii <http://edocket.access.gpo.gov/2009/E9-27742.htm>
- xliiii <http://www.hud.gov/offices/hsg/ramh/res/finalrule.pdf>
- xliv <http://edocket.access.gpo.gov/2009/pdf/E8-31183.pdf>
- xlv http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?c=ecfr&sid=635f26c4af3e2fe4327fd25ef4cb5638&tpl=/ecfrbrowse/Title12/12cfr219_main_02.tpl
- xlvi <http://edocket.access.gpo.gov/2009/E9-27882.htm>
- xlvii <http://www.federalreserve.gov/newsevents/press/bcreg/bcreg20081112a1.pdf>
- xlviii <http://edocket.access.gpo.gov/2008/pdf/E8-25320.pdf>
- xlix <http://www.federalreserve.gov/boarddocs/meetings/2008/20080714/draftfedreg.pdf>
- 1 http://www.nacha.org/IAT_Industry_information/