

## March 2011 – INTERSTATE CAPITOL COMMENTS

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



## CBA IS ON THE MOVE

CBA is moving effective

April 1, 2011,

our New Address is:

COMMUNITY BANKERS  
ASSOCIATION OF KANSAS  
1414 SW Ashworth Place,  
Suite 200  
Topeka, KS 66604-3742

The following information  
remains the same:

Phone: 785-271-1404  
Fax: 785-271-1508  
Email: [info@cbak.com](mailto:info@cbak.com)  
*(please update your records  
with our new information)*

### FDIC overdraft protection guidance teleconference

Staff from the FDIC's Division of Depositor and Consumer Protection will host a teleconference on March 29, 2011, to discuss the 2010 Overdraft Payment Program Supervisory Guidance issued in November 2010 ([FIL-81-2010](#)). The purpose of the call is to assist FDIC-supervised institutions as they implement the guidance. In addition to providing an overview of the guidance, staff will address examination and implementation issues based on discussions with, and questions received from, FDIC-supervised institutions. ([FIL-16-2011](#))

*Comment: •The teleconference will be held on Tuesday, March 29, 2011, from 3:00 to 4:30 p.m. EDT. Advance registration is required. Registration information, presentation materials, and call-in information is available by clicking [here](#).*

### Fed agencies issue interim final rule on garnishment of Federal benefits

Treasury, SSA, VA, Railroad Retirement Board and Office of Personnel Management (Agencies) issued an [interim final rule](#) to implement statutory restrictions on the garnishment of Federal benefit payments. The rule establishes procedures that financial institutions must follow when they receive a garnishment order against an account holder who receives certain types of Federal benefit payments by direct deposit. The rule requires financial institutions that receive such a garnishment order to determine the sum of such Federal benefit payments deposited to the account during a two month period, and to ensure that the account holder has access to an amount equal to that sum or to the current balance of the account, whichever is lower.

*Comment: Under the rule, a financial institution that receives a garnishment order must first determine if the United States or a State child support enforcement agency is the plaintiff that obtained the order. If so, the financial institution follows its customary procedures for handling the order. If not, the financial institution must review the account history for the prior two-month period to determine whether, during this "lookback period," one or more exempt benefit payments were directly deposited to the account. The financial institution may rely on the presence of certain ACH identifiers to determine whether a payment is an exempt benefit payment for purposes of the rule.*

*The financial institution must allow the account holder to have access to an amount equal to the lesser of the sum of exempt payments directly deposited to the account during the lookback period or the balance of the account on the date of the account review (the "protected amount"). In addition, the financial institution must notify the account holder that the financial institution has received a garnishment order. The notice must briefly explain what a garnishment is and must also include other information regarding the account holder's rights. There is no requirement to send a notice if the balance in the account is zero or negative on the date of account review. Financial institutions may choose to use a model notice contained in the rule in order to be deemed in compliance with the notice content requirements.*

*For an account containing a protected amount, the financial institution may not collect a*

# 21<sup>ST</sup> ANNUAL CBA CHAIRMAN'S GOLF CLASSIC

## WHERE

Manhattan Country Club  
1531 N. 10<sup>th</sup> St.  
Manhattan, KS 66502

## WHEN

Monday, May 16, 2011  
1:00 p.m. – Shotgun Start

*For more information or to register for the tournament please go to [www.cbak.com](http://www.cbak.com) or call 785-271-1404.*

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*garnishment fee from the protected amount. The financial institution may only charge a garnishment fee against funds in the account in excess of the protected amount and may not charge or collect a garnishment fee after the date of account review. Financial institutions that comply with the rule's requirements are protected from liability.*

*This interim final rule is effective May 1, 2011. Comments must be received on or before May 24, 2011.*

### **FinCEN amends BSA reports of foreign financial accounts**

FinCEN issued a [final rule](#) to amend BSA regulations regarding reports of foreign financial accounts. The rule addresses the scope of the persons required to file reports of foreign financial accounts. The rule further specifies the types of accounts that are reportable, and provides filing relief in the form of exemptions for certain persons with signature or other authority over foreign financial accounts. Finally, the rule adopts provisions intended to prevent persons subject to the rule from avoiding their reporting requirement.

*Comment: This rule is effective March 28, 2011. It applies to reports that must be filed by June 30, 2011 with respect to foreign financial accounts maintained in calendar year 2010 and for reports required to be filed with respect to all subsequent calendar years.*

### **CFPB requests comments on its forms for gathering information on financial products and services**

The Consumer Financial Protection Bureau has invited the public to submit written comments concerning: (a) Whether the intake of complaints, questions, and other information relating to consumer financial products and services is necessary for the proper performance of the functions of the Bureau, including whether the information will have practical uses; (b) the accuracy of the above estimate of the burden of the information collection; (c) ways to enhance the quality, usefulness, and clarity of the information to be collected; (d) ways to minimize the reporting and/or record keeping burdens on respondents, including the use of automated collection techniques or other forms of information technology; (e) estimates of capital or start-up costs of operation, maintenance, and purchase of services to provide information; and (f) specific types of information that would be useful for CFPB to collect through its intake forms, in order to advance the mission of CFPB. [76 FedReg 13018](#).

*Comment: Written comments must be received on or before May 9, 2011 to be assured consideration.*

### **OCC hosts director workshop in Charlottesville, Virginia**

The Office of the Comptroller of the Currency will host a workshop for directors of nationally chartered community banks and federal savings associations in Charlottesville, Virginia, at the Omni Charlottesville, April 11-13, 2011. The workshop, "[A Director's Challenge: Mastering the Basics](#)," provides practical information that expands bank directors' skills and understanding of issues facing their banks.

*Comment: OCC workshops are an inexpensive way to train your directors.*

### **FTC Releases List of Top Consumer Complaints in 2010**

The FTC released the [list of top consumer complaints](#) received by the agency in 2010. The list showed that for the 11th year in a row, identity theft was the number one consumer complaint category. Of 1,339,265 complaints received in 2010, 250,854 – or 19 percent – were related to identity theft. Debt collection complaints were in second place, with 144,159 complaints. Click [here](#) to see the text of the report.

The top consumer complaints were:

Rank	Category	Number of Complaints	Percentage
1	Identity Theft	250,854	19%
2	Debt Collection	144,159	11%
3	Internet Services	65,565	5%
4	Prizes, Sweepstakes and Lotteries	64,085	5%



## FINE POINTS

By Camden R. Fine  
President and CEO of ICBA

## FINANCIAL REFORM – PART II

The first heavy shoe to drop in Washington in response to the nation's worst financial crisis since the Great Depression was last summer's Wall Street Reform Act. From the beginning of the financial reform debate more than three years ago, policymakers from both parties put nearly everything on the table for consideration—except the status quo. Good ideas, bad ideas and even terrible ideas were proposed and debated. Primarily because of lobbying by community bankers, several pro-community-bank ideas were ultimately adopted in the broader legislation.

Now Congress is preparing to drop the second huge shoe, one that everyone knows must come—ending the government's conservatorship of Fannie Mae and Freddie Mac. In February, the Obama administration outlined three possible policy approaches to reconfigure not just Fannie Mae and Freddie Mac but the government's overall secondary market role. At stake, of course, is the stability, openness and, ultimately, effectiveness of the secondary market, including the ability of community banks to remain viable mortgage-market participants.

The administration's surprisingly open-ended options put nearly everything on the table—except the status quo. A smaller government role in the secondary market is a given, but Congress will decide just how small over the next several months. Obviously, the worst outcome would be a new secondary

5	Shop-at-Home and Catalog Sales	60,205	4%
6	Imposter Scams	60,158	4%
7	Internet Auctions	56,107	4%
8	Foreign Money/Counterfeit Check Scams	43,866	3%
9	Telephone and Mobile Services	37,388	3%
10	Credit Cards	33,258	2%

For the first time, “imposter scams” – where imposters posed as friends, family, respected companies or government agencies to get consumers to send them money – made the top 10. The FTC also has issued a new consumer alert, “[Spotting an Imposter](#)”, to help consumers avoid imposter scams.

### Bank officer and employee deposit insurance coverage training

The FDIC will conduct ten identical telephone seminars for bank officers and employees that will provide comprehensive training on deposit insurance coverage rules and regulations. Each seminar will begin with an audio and slide presentation, immediately followed by a question-and-answer period with FDIC subject matter experts. The seminars will be conducted between March 23 and December 7, 2011, and are free to employees and officers of FDIC-insured banks and savings associations. Click [here](#) to register.

*Comment: The FDIC approved [notice of proposed rulemaking](#) that would require certain employees of insured depository institutions to complete training on the fundamentals of FDIC deposit insurance coverage. The seminars offered by the FDIC will give you a head start on these proposed rules, which will most likely be adopted after the comment period ends on April 12, 2011.*

### FDIC top 10 online resources

The FDIC has compiled a "[Top 10](#)" list of FDIC online resources for consumers on subjects ranging from deposit insurance to shopping for a bank account and avoiding financial fraud.

*Comment: The top 10 are EDIE, FDIC Consumer News, Bank Find, Customer Assistance Online Form, FDIC Consumer Alerts, Small Business Web Page, The FDIC YouTube Channel, Money Smart, Foreclosure Prevention Toolkit, and E-mail updates.*

### FDIC Chairman's Award for Excellence

The Federal Deposit Insurance Corporation (FDIC) announced today a new [Chairman's Award for Excellence](#) to recognize and honor the work of individuals or small groups at FDIC-insured financial institutions who are instrumental in creating and promoting programs that meet the credit and deposit needs of low- and moderate-income consumers. There will be up to six non-monetary awards presented for programs that demonstrate excellence in providing economic products for these consumers.

Individuals or small groups of employees at FDIC-insured institutions who are responsible for developing and/or implementing the relevant program at their respective financial institution may nominate themselves, be nominated by someone at their institution or by a third party, including consumers who benefit from these programs. The winners will be announced in the spring of 2011.

Click [here](#) to access the nomination criteria and to download the nomination form. The deadline to submit the nominations with supporting documentation is March 31, 2011.

### Federal Reserve Banks announce new FedComplete Packages.

Beginning April 1, 2011, the Federal Reserve Banks will offer FedComplete Packages, all-electronic service options that bundle payment services with an access solution for one monthly fee. Designed for institutions with low transaction volumes and an interest in processing their own payments through a FedLine Advantage® connection, initial FedComplete Package offerings include a fixed number of FedACH®, Fedwire® Funds, and Check 21-enabled Services.

*Comment: Visit [FRBservices.org](#) for more FedComplete Package information and pricing, to request follow-up or to locate your Account Executive's contact information.*

market dominated by too-big-to-fail financial institutions that would essentially shoulder community banks out of mortgage lending. (Yes, Wall Street's hive of lobbyists is still busily buzzing in Washington.)

Fortunately, ICBA has a much better alternative. Last month we recommended that Fannie Mae and Freddie Mac transition to a cooperative organizational model, one similar to the Federal Home Loan Bank system. For several important reasons inherent to its governance structure—most critically a one-company, one-vote requirement—such cooperatives would deploy private capital in a safe, efficient and impartial way that would prevent future government bailouts in all but catastrophic market downturns. By their rules and structure, the co-ops would pursue only conservatively underwritten long-term fixed-rate mortgages. (For more details, see Washington Watch on page 12.)

Our cooperative proposal will have lots of competition in Washington, and many policymakers won't be familiar enough with the model's advantages. We'll have to explain not just why our proposal is a constructive, sensible policy but why it's the best among several other possible approaches.

But no doubt we can do it. Members of Congress and Obama administration officials remember how community banks continued providing responsible, safe mortgages throughout the subprime market madness. They want to ensure that community banks remain strong, full participants in the mortgage market. We just have to win them over on how and why our proposal would be best.

From the first round of Wall Street reform, we still have policymakers' ears. Let's keep tugging at them.

### **FinCEN Outreach to smaller depository institutions**

FinCEN, in a new report, [Outreach to Depository Institutions with Assets Under \\$5 Billion](#), announced the findings of its Outreach Initiative to smaller depository institutions. The report's findings are based on information gathered from FinCEN's individual visits and town hall style meetings with more than 70 depository institutions including credit unions and community banks. This is the third in a series of Outreach Initiative reports released by FinCEN.

*Comment: Among the key findings in the report:*

• *Depository institutions are increasingly integrating their anti-fraud and anti-money laundering efforts. Even in cases where the two functions may not be housed in the same department, there is close collaboration on fraud and money laundering issues.*

• *There is significant engagement with law enforcement, but many institutions do not take full advantage of existing information sharing enabled by Section 314(b) of the USA PATRIOT Act to share information with their business peers.*

• *Institutions expressed comfort with their procedures and ability to promptly search and respond to FinCEN inquiries with respect to investigations of terrorist financing and significant money laundering.*

• *Credit union officials discussed unique circumstances that affect their compliance with BSA requirements. Among these are shared branching, difficulties in expelling credit union members engaged in risky activity, growth, increasing diversity, geographic expansion of membership base, and an increasing amount of international transactions.*

### **Advisory on filing SARs regarding financial exploitation of the elderly**

FinCEN issued an [advisory](#) to assist the financial industry in reporting instances of financial exploitation of the elderly.

*Comment: Financial institutions are in a unique position to identify elderly abuse through monitoring transaction activity that isn't consistent with expected behavior and direct interactions with elderly customers. Things to look for include:*

- *Erratic or unusual banking transactions*
- *Changes in banking patterns*
- *Unusual, excessive, fearful, or dependent interactions with caregivers or other third parties*

*If a financial institution knows, suspects, or has reason to suspect that a transaction has no business or apparent lawful purpose or is not the sort in which the particular customer would normally be expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts, including the background and possible purpose of the transaction, the financial institution should then file a Suspicious Activity Report. Check your state laws to determine whether individuals and financial institutions are required to report elder abuse to Adult Protective Services.*

### **NMLS's "Industry Terms of Use" updated**

A change was made to Section 4(H) of the NMLS Industry Terms of Use to provide clarification to a change made on January 31, 2011. A redline version of the document can be found here: [Industry Terms of Use](#).

### **NMLS: Additional training workshops added**

In response to high demand, an additional round of the "How To" training series (Sessions A–D) has been added. In the coming weeks, a recorded version of each session will be made freely available. For more details, see [NMLS Workshops](#).

*Comment: There are very few training dates remaining. Registration is \$35 per session.*

### **Fraudulent e-mail claims to be from the FDIC**

The FDIC has received numerous reports of a fraudulent e-mail that has the appearance of



## FROM THE TOP

By Sal Marranca  
Chairman of ICBA

# Be a Part of It

Is your to-do list overflowing? Mine is—both at my community bank day job and as your new ICBA chairman.

ICBA and its leaders are deep into working toward the best outcome on regulations related to the Wall Street Reform Act. We're providing workable policy ideas to maintain equal, viable access to the nation's home financing system as the debate over Fannie Mae and Freddie Mac unfolds. We're acting to extend SBA-loan program incentives and increase the guarantee on SBA loans to 90 percent; the tax-exempt eligibility for loans guaranteed by the Federal Home Loan Banks; and the \$30 million issuance allowance for popular tax-exempt qualified-small-issue bonds.

We are fighting to correct the disconnect between regulators in Washington and the examiners in the field. Having to satisfy ever more burdensome regulations, even when they shouldn't apply to our business model, is hampering lending, impeding staff and hurting profitability.

We are defending the Farm Bill budget against proposed cuts, recommending improvements to USDA's business- and industry-guaranteed loan program, and opposing devastating cuts to crop-insurance programs. We are urging Congress to extend the Guaranteed Rural Housing Loan Program past May 1, keep tax-exempt credit unions from further impinging on our

being sent from the FDIC.

The subject line of the e-mail states: "Important information for depositors of Federal Deposit Insurance Corporation." The e-mail informs recipients that "this message was sent to you as you had indicated this e-mail address as a contact, by opening an account in your bank department."

The e-mail then states, "In order to inform you about the news concerning current business activity of the Company on a timely basis, please, look through the last important changes in current regulations of endowment insurance procedure. Please, refer to more detailed information in the attached document." The e-mail says that it is from "Federal Deposit Insurance Corporation Investor Relations Department."

Attached to the e-mail is Zip file named "FDIC\_Document.ZIP"

This e-mail and its attachment are fraudulent. Recipients should consider the intent of this e-mail as an attempt to collect personal or confidential information, or to load malicious software onto end users' computers. Recipients should not open the attachment provided.

The FDIC does not issue unsolicited e-mails to consumers.

*Comment: You might post a warning about this fraudulent email on your Web site.*

### Yet another fraudulent email that claims to be from the FDIC

The FDIC has received numerous reports of a fraudulent e-mail that has the appearance of being sent from the FDIC. The e-mail appears to be sent from "accounts@fdic.gov" and includes a subject line that states: "About your business account." The e-mail is addressed to "Business Customers" and states "We have important information about insurance coverage of your business accounts." It then asks recipients to "Please click here to view details" and includes a hyper link to a Web site. The e-mail says that it is from "Alyssa Williams, FDIC Insurance." This e-mail and link are fraudulent. Recipients should consider the intent of this e-mail as an attempt to collect personal or confidential information, or to load malicious software onto end users' computers. Recipients should not click on the link provided.

*Comment: The FDIC does not issue unsolicited e-mails to consumers or business account holders. Again, you might post a warning to your customers on your Web site.*

### OTS: CEO letter on capital management

On March 15, 2011, the OTS sent [CEO Letter #380](#) reminding savings associations that capital planning is critical and that they should have a rigorous process for assessing their own capital adequacy, especially as we move into a new business and regulatory environment. The letter gives instruction on internal capital analysis, stress testing, and OTS examinations.

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## DODD-FRANK ACT

*Note to the Reader: This new section is devoted to matters relating directly to the Dodd-Frank Act. In this section, we will report on both proposed and final rulemaking. We don't usually report on proposed rulemaking because readers can confuse the proposals with final rules; however, an exception will be made with respect to selected rules proposed in response to the Dodd Frank Act. Please be aware that rules listed as proposed have not been adopted by the regulators. On occasion, we will encourage you to comment on a proposal.*

### Final Rules:

#### Final rule: Higher-priced mortgage loan for jumbo mortgages amendment

Dodd-Frank raised the HPML threshold for jumbo mortgages and created an exception for escrow for rural and underserved communities with regard to the requirements for a "qualified residential mortgage." Last Wednesday, the Fed issued a [final rule](#) that, effective April 1, 2011, increases from 1.5 to 2.5 percentage points the APR threshold for determining whether a jumbo mortgage secured by a first lien on a consumer's principal dwelling is a HPML for which an escrow account must be established. The Fed also proposed a rule that would exempt mortgage loans extended

turf, guard against problems with the coming Consumer Financial Protection Bureau and more. And that's just the first page of the list.

But my to-do list as your chairman is about more than facts, figures and policies. It's about communication, inspiration and leadership. It's about showing you—and legislators, regulators, media, our supporters and our detractors—that the balance of power is shifting from Wall Street to Main Street. It's also about getting you to look up from your balance sheet and employee roster and strategic plan and to get involved in the big picture.

Did you know there were 7,000 registered lobbyists working Capitol Hill during the financial reform process? How many do you think were looking out for you, me and community banking? What we lack in numbers, we have to make up in passion, knowledge and persistence.

I am often asked, "Are you ready to be chairman?" Yes, I am. I can do it, but only if you have my back—mine and those of your fellow community bankers. Call your legislator. Rally your staff and board. Educate your customers. Invest in your bank and your region as never before.

Know any non-ICBA community bankers? Tell them ICBA is the only national association focused solely on your bank and its place in your community, and its modest dues are franchise-value insurance for your bank. I'll be flying around the country with that message. Can you help me spread the same message? Maybe you've thought about attending an educational institute or serving on a committee or nominating an employee for ICBA recognition. Step up and do it. What helps you and your community bank helps us all by making us stronger.

I am honored, humbled and excited to be ICBA chairman. I'm going to work my tail off. I will not back down in preserving and extending the community bank franchise—our livelihood and the pride of our communities and our country. And

by creditors that operate predominantly in rural or underserved areas, originate a limited number of mortgage loans, and do not maintain escrow accounts for any mortgage loans they service.

In July of 2008, the Fed adopted final rules which defined a class of HPMLs and prohibited a lender from extending a HPML secured by a first lien unless an escrow account was established before consummation of the loan for payment of property taxes and premiums for mortgage-related insurance required by the creditor. See 12 CFR §226.35(b)(3).

A HPML is a consumer transaction secured by the consumer's principal dwelling with an APR that exceeds the average prime offer rate (APOR) for a comparable transaction by 1.5 or more percentage points for loans secured by a first lien, or by 3.5 or more percentage points for loans secured by a subordinate lien. See 12 CFR §226.35(a)(1).

On July 21, 2010, the Dodd-Frank Act substantially codified the HPML rules in the Truth in Lending Act (TILA), Section 129D. For loans that do not exceed the maximum original principal obligation for a mortgage eligible for purchase by Freddie Mac, it imposed an escrow requirement where the APR exceeded APOR by 1.5 or more percent. (Currently, the maximum is \$417,000 for a single-family property not in a designated "high-cost" area, and higher limits apply for property with two to four residential units.) For loans with original principal obligations that exceed \$417,000 (so-called jumbo mortgage), escrow is required when the APR exceeds the applicable APORs by 2.5 or more percentage points.

The final rule, issued last Wednesday, revises §226.35(b)(3) by increasing from 1.5 to 2.5 percentage points the APR threshold for determining whether a jumbo mortgage secured by a first lien on a consumer's principal dwelling is an HPML for which an escrow account must be established. This will eliminate the mandatory escrow requirement for loans with an APR above the existing threshold but below the new threshold.

The final rule is effective for covered loans for which an application is received on or after April 1, 2011. The HPML requirements do not apply to HELOCs, loans to finance initial construction of a dwelling, temporary or bridge loans with a term of 12 months or less or reverse mortgages.

*Comment: This is not the relief from HPML escrow requirements that community banks have been asking for.*

**Proposed rules:**

**Proposed: Reg Z HPML escrow amendment for lenders operating in rural or underserved areas**

The Board is publishing for public comment a [proposed rule](#) that would amend Regulation Z to implement certain amendments to the Truth in Lending Act made by the Dodd-Frank Wall Street Reform and Consumer Protection Act. Reg. Z currently requires creditors to establish escrow accounts for higher-priced mortgage loans secured by a first lien on a dwelling.

The proposal would implement statutory changes made by the Dodd-Frank Act that lengthen the time for which a mandatory escrow account established for a higher-priced mortgage loan must be maintained. In addition, the proposal would implement the Act's disclosure requirements regarding escrow accounts. The proposal also would exempt certain loans from the statute's escrow requirement. The primary exemption would apply to mortgage loans extended by creditors that operate predominantly in rural or underserved areas, originate a limited number of mortgage loans, and do not maintain escrow accounts for any mortgage loans they service

*Comment: The definition of rural appears to be almost too narrow to be meaningful. Comments must be received on or before May 2, 2011.*

*Here is the information for commenting on this or any rule proposed by the Federal Reserve:*

the first thing on my to-do list is to ask you to join me.

My to-do list as your chairman is about more than facts, figures and policies. It's about communication, inspiration and leadership.

***Agency Web site.*** (Follow the [instructions](#) for submitting comments.)

***Federal eRulemaking Portal.***

***E-mail.*** (Include the docket number in the subject line of the message.)

***Fax:*** (202) 452-3819 or (202) 452-3102.

***Mail:*** Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

**Proposed: Availability of funds and collection of checks amendment**

The Federal Reserve Board requested public comment on [proposed amendments](#) to Regulation CC to encourage banks to clear and return checks electronically, add provisions that govern electronic items cleared through the check-collection system, and shorten the "exception" hold periods on deposited funds.

To encourage electronic collection and return of checks between banks, the proposal provides that a depository bank would be entitled to the expeditious return of a check only if it agrees to receive returned checks electronically. In addition, the proposal would permit the bank responsible for paying a check to require that checks presented to it for same-day settlement be presented electronically. More generally, the proposal would apply Regulation CC's collection and return provisions, including warranties, to electronic check images that meet certain requirements.

Additionally, due to the faster collection and return timeframes that result from electronic collection and return, the proposal would shorten the safe-harbor period for an exception hold to four business days, which should enable the depository bank to learn of the return of virtually all unpaid checks before being required to make these deposits available for withdrawal. The proposal also eliminates the references in Regulation CC to "nonlocal" checks. The distinction between local and nonlocal checks is tied to Federal Reserve Bank check processing regions. As of February 2010, the Reserve Banks have ceased operations in all but one of their check processing offices, such that there is now only one check processing region, and all checks are local to each other. Local checks are generally subject to a two-business-day hold period.

Appendix C to the regulation sets forth model funds-availability forms that banks may use as the basis of their disclosures to customers. The proposal includes new model forms that were developed using consumer testing and that set forth funds-availability policies in a manner that is designed to be more easily understood by consumers.

***The Board's Federal Register notice is attached. Comments on the proposal are due June 3, 2011.***

**Proposed: Fair Credit Reporting risk-based pricing regulations amendment**

On January 15, 2010, the Board and the Commission published final rules to implement the risk-based pricing provisions in section 311 of the FACT Act, which amends FCRA. The final rules generally require a creditor to provide a risk-based pricing notice to a consumer when the creditor uses a consumer report to grant or extend credit to the consumer on material terms that are materially less favorable than the most favorable terms available to a substantial proportion of consumers from or through that creditor. The Board and the Commission propose to amend their respective risk-based pricing rules to require disclosure of credit scores and information relating to credit scores in risk-based pricing notices if a credit score of the consumer is used in setting the material terms of credit. These proposed amendments reflect the new requirements in section 615(h) of the FCRA that were added by section 1100F of the Dodd-Frank Act.

***Comment: Comments on the [proposed Reg V amendments](#) must be received on or before May 16, 2011.***

**Proposed: Equal Credit Opportunity amendment**

Section 701 of the ECOA requires a creditor to notify a credit applicant when it has taken adverse action against the applicant. The ECOA adverse action requirements are implemented in the Board's Regulation B.

Section 615(a) of the FCRA also requires a person to provide a notice when the person takes an adverse action against a consumer based in whole or in part on information in a consumer report. Certain model notices in Regulation B include the content required by both the ECOA and the FCRA adverse action provisions, so that creditors can use the model notices to comply with the adverse action requirements of both statutes. The Board proposes to amend these model notices in Regulation B to include the disclosure of credit scores and information relating to credit scores if a credit score is used in taking adverse action. These proposed amendments reflect the new content requirements in section 615(a) of the FCRA that were added by section 1100F of the Dodd-Frank Act.

*Comment: Comments on the [proposed amendment to Reg B](#) must be received on or before May 16, 2011.*

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## PUBLICATIONS, REPORTS, STUDIES, TESTIMONY & SPEECHES

- **OCC consumer advisory on mortgage modification and foreclosure rescue scams**

A recent [OCC consumer advisory \(CA 2011-1\)](#) describes common foreclosure scams, suggests ways homeowners can avoid those scams, and outlines new federal rules to protect homeowners from such schemes. This advisory also lists 10 warning signs homeowners can use to identify foreclosure scams.

- **Fed's semi-annual update of holding company manual**

The Fed has issued its semi-annual update of the [Bank Holding Company Supervision Manual](#).

- **FDIC offers consumer tips on finances, small business loans, new Internet frauds, and unlimited insurance for noninterest-bearing transaction accounts**

Consumers who organize and simplify their financial life can eliminate clutter, save time, reduce stress and save money on fees, interest or other charges. [The Winter 2010/2011 issue of FDIC Consumer News](#), published by the Federal Deposit Insurance Corporation, features tips for streamlining money management. Other timely topics include strategies for getting a small business loan, a warning about new financial frauds on the Internet, an explanation of the unlimited FDIC insurance coverage for noninterest-bearing transaction accounts, options for boosting college savings, and ideas for positioning personal finances for changing interest rates.

- **FedFocus**

The March 2011 issue of [FedFocus](#) contains articles on check changes through the decade, expediting reconciliation, demand deposit accounts, and automating FedACH.

- **FedFlash**

March [FedFlash](#) includes End User Authorization Contact; Tip: Periodically review your FedLine® and FedPhone® Subscriber lists; New Account Information Services Forms, effective April 1, 2011; Payment System Risk policy changes to take effect March 24, 2011; FedACH Risk® RDFI Alert Service batch and item level monitoring now available; and Reminder: Important information about revisions to Operating Circular 2 and Cash Services Manual of Procedures, effective April 1, 2011.

- **FDIC state profiles**

Click [here](#) to access a map of the U.S. with quarterly data sheet summation of banking and economic conditions in each state.

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## Selected upcoming federal compliance dates:

03.28.2011 **FinCEN [final rule](#) to amend BSA regulations regarding reports of foreign financial accounts.**

04.01.2011 **[Final rule](#) amending Reg. Z increases from 1.5 to 2.5 percentage points the APR threshold for determining whether a jumbo mortgage secured by a first lien on a consumer's principal dwelling is a HPML for which**

**an escrow account must be established.**

- 04.01.2011 [Reg. Z](#) – Amendment to protect consumers in the mortgage market from unfair or abusive lending practices that can arise from certain loan originator compensation practices.
- 04.01.2011 Fed’s [final rule](#) to implement the conformance period during which banking entities and nonbank financial companies supervised by the Board must bring their activities and investments into compliance with the prohibitions and restrictions on proprietary trading and relationships with hedge funds and private equity funds imposed by the “Volcker Rule.
- 04.01.2011 FDIC [final rule](#) on Assessments, Dividends, Assessment Base, and Large Bank Pricing. This new large bank pricing system will result in higher assessment rates for banks with high-risk concentrations, less stable balance sheet liquidity, or potentially higher loss severity in the event of failure. **Except as specifically provided, the final rule will take effect for the quarter beginning April 1, 2011, and will be reflected in the June 30, 2011 fund balance and the invoices for assessments due September 30, 2011.**
- 05.01.2011 [Interim final rule](#) to implement statutory restrictions on the garnishment of Federal benefit payments and establish procedures that financial institutions must follow when they receive a garnishment order against an account holder who receives certain types of Federal benefit payments by direct deposit.
- 07.01.2011 [FDIC Overdraft Payment Supervisory Guidance](#). The FDIC expects that any additional efforts to mitigate risk would be in place by July 1, 2011.
- 07.21.2011 This is the transfer date when the CFPB will be vested with the consumer protection authorities currently held by the existing federal financial regulators, such as the Federal Reserve and the FDIC.
- 07.22.2011 Effective date of the repeal of Reg Q’s prohibition on payment of interest on commercial checking accounts.

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

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**Selected federal compliance dates from the not-so-distant past:**

- 03.15.2011 [Nondiscrimination on the Basis of Disability Final Rules](#) – Effective dates of new [ADA requirements for ATMs](#).
- 01.31.2011 [Reg. E](#) – This is the delayed effective date pursuant to [H.R. 5502](#). 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.
- 01.30.2011 [Reg Z](#) –The interim rule revising the disclosure requirements for closed-end mortgage loans is effective for all applications received on or after January 30, 2011.
- 01.03.2011 [Official FDIC sign](#) – New FDIC signs must be posted showing the \$250,000 minimum insurance amount.
- 01.01.2011 [FACT Act](#) – 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.
- 01.01.2011 [Reg. Z](#) – Final rule requiring purchaser or assignee that acquires loan to

	provide written disclosures within 30 days of sell, transfer or assignment.
12.31.2010	<a href="#">Unlimited Coverage for Noninterest-Bearing Transaction Accounts</a> – This is the expiration date for the TAG program. However, the Dodd Frank Act extends this program for 2 calendar years and it applies to everyone as part of the standard FDIC coverage. For those who opted in, the original program does expire on this date. NOW and IOLTA customers must receive notice of expiration of TAG program. <b>(On December 29, 2010, the President signed a law giving IOLTAs full coverage also.)</b>
12.31.2010	The federal banking agencies published <a href="#">amendments</a> to their rules that implement the privacy provisions of the Gramm-Leach-Bliley Act. The rules require financial institutions to provide initial and annual privacy notices to their customers. The Agencies adopted a model privacy form that financial institutions may rely on as a safe harbor to provide disclosures under the privacy rules.
12.10.2010	Final <a href="#">Interagency Appraisal and Evaluation Guidelines</a> effective.
10.01.2010	<a href="#">Reg. Z</a> – Escrow required on higher priced mortgage loans on <u>manufactured homes</u> .
10.01.2010	<a href="#">Reg. DD</a> – Reg. DD and the official staff commentary amended to address the application of the rule to retail sweep programs and the terminology for overdraft fee disclosures, and to make amendments that conform to the Board’s final Regulation E amendments addressing overdraft services, adopted in November 2009.
08.22.2010	<del><a href="#">Reg. E</a><sup>i</sup> – 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.</del> EFFECTIVE DATE DELAYED TO JANUARY 31, 2011.
08.22.2010	<a href="#">Reg. Z</a> – Federal Reserve Board final rule to protect credit card users from unreasonable late payment and other penalty fees and to require credit card issuers to reconsider interest rate increases imposed since the beginning of 2009.
08.02.2010	<a href="#">Daylight Overdraft Posting Rules</a> . The Federal Reserve Banks will be offering an opt-in, same-day settlement service for certain ACH debit payments through the FedACH service effective August 2, 2010.
07.01.2010	Implementing FACT Act Accuracy & Integrity Rules: Deadline July 1, 2010
07.01.2010	<a href="#">Reg. Z</a> – This is the mandatory compliance date for all provisions of the final rule on <u>open end credit</u> 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	<a href="#">Reg. Z and Reg. AA (Unfair or Deceptive Practices)</a> – 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	<a href="#">Reg. E</a> – The final rule limits the ability of a financial institution to assess an <u>overdraft fee</u> 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 <a href="#">Reg. E</a> and <a href="#">Reg. DD</a> have been

proposed to clarify the initial Reg. E amendments.)

- 07.01.2010 [FACT Act \(Fair and Accurate Credit Transactions Act\)](#) –Those furnishing consumer information to a consumer reporting agency must establish reasonable policies and procedures for implementing the guidelines in Appendix E.
- 06.21.2010 Post employee [notices](#) pursuant to Executive Order 13496
- 06.01.2010 [Reg. GG \(Prohibition on Funding of Unlawful Internet Gambling\)](#).–. 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 \(Extension of compliance date\)](#)
- 04.01.2010 [Reg. Z](#) – Escrow on higher priced loans (Specifically, [12 CFR 226.35\(b\)\(3\)](#) is effective April 1, 2010.)

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