



## May 2011 – INTERSTATE CAPITOL COMMENTS

Community Bankers Association of Kansas  
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### CBA OPEN HOUSE

Come and tour your  
association office and  
enjoy light  
hors d'oeuvres and  
beverages

WHERE

1414 SW Ashworth Place,  
Suite 200  
Topeka, KS 66604

WHEN

Friday, June 3, 2011  
10:00 am – 3:00 pm

Please RSVP to the  
CBA Office

E-mail: [info@cbak.com](mailto:info@cbak.com)  
Phone: (800) 258-4589  
Fax: (785) 271-1508

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

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**Recent News**

**CFPB announces “Know Before You Owe” initiative**

The CFPB is working to create simpler mortgage disclosure forms. Go to the CFPB’s *Know Before You Owe* [Web page](#)<sup>i</sup>, enter your email address and Zip Code, and they’ll let you know when it is time to provide input.

*Comment: The information on this Web page is simplistic and definitely directed at consumers.*

**FDIC Chairman to depart July 8th**

The FDIC announced Chairman Sheila C. Bair's official departure will be effective July 8th, 2011. Consistent with previous public statements, Chairman Bair has announced her intention to depart the agency following the expiration of her term as Chairman. The FDIC will hold a board meeting during the first week of July. This will be Chairman Bair's final board meeting.

**FinCEN: Information on narcotics and bulk currency corridors**

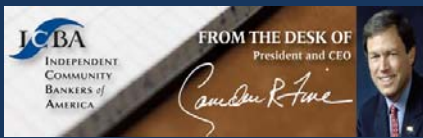
FinCEN issued an Advisory ([FIN-2011-A009](#)<sup>ii</sup>) to draw the attention of financial institutions to narcotics and bulk currency corridors in the United States. The goal is to assist financial institutions in developing a better understanding of their own geographic locations, how these locations intersect with established flows of narcotics and bulk currency, and how geographic location may affect BSA obligations.

*Comment: FinCEN reminds U.S. financial institutions of their requirement under the BSA to report suspicious transactions conducted or attempted by, at, or through the U.S. financial institution. A transaction is suspicious if the transaction(a) involves funds derived from illegal activity, (b) the transaction is indicative of structuring, money laundering, terrorist financing, or any other violation of federal law or regulation, or (c) the transaction has no business or apparent lawful purpose, or is not the sort in which the customer is normally expected to engage, and the financial institution knows of no reasonable explanation for the transaction after examining the available facts.*

**FDIC: More emails claiming 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 "alert@fdic.gov" and includes a subject line that states: "FDIC: Your business account."

The e-mail is addressed to "Business Owners" and states "We have important information



## FINE POINTS

By Camden R. Fine  
President and CEO of ICBA

## CFA—REAL SOLUTIONS

Call it a down payment on doable measures for Congress to bolster community banks and Main Street America. Consider it a reflection of ICBA's leadership in advocating real solutions on Capitol Hill and remaining a constructive and influential participant in the policymaking process in Washington.

The Communities First Act (CFA) of 2011 (H.R. 1697), introduced last month by House Financial Services Committee member Blaine Luetkemeyer (R-Mo.), represents a comprehensive package of highly targeted regulatory- and tax-relief measures. Like its earlier version that ICBA helped lawmakers fashion in 2006–2007, the legislation is chock full of practical, nitty-gritty measures that make a real difference for community banks. They're very much worth reviewing.

Among its regulatory-relief provisions, the CFA would ...

- allow highly rated, well-capitalized banks with assets of \$10 billion or less to file a short-form call report in two nonsequential quarters of each year;
- increase the Sarbanes-Oxley internal attestation level exemption for depository institutions from \$75 million to \$1 billion in market capitalization;
- only require annual privacy notices to customers unless a bank changes its information sharing policies;
- require the federal government to reimburse

about your bank. Please click here to see information." It then states, "This includes information on the acquiring bank (if applicable), how your accounts and loans are affected, and how vendors can file claims against the receivership."

*Comment: You may want to get the word out to your business customers that this e-mail and link are fraudulent and should be considered an attempt to collect personal or confidential information, or to load malicious software onto their computers. They should not click on the link provided. Over the years, the FDIC has repeatedly said that does not issue unsolicited e-mails to consumers or business account holders.*

### OCC: Information security

An OCC alert ([Alert 2011-4](#)<sup>iii</sup>) highlights the need for national banks and their technology service providers (TSPs) to take steps to ensure their enterprise risk management is sufficiently robust to protect and secure both the bank's information and the information of its customers.

*Comment: National banks and their TSPs are expected to carefully review the [National Security Agency's Information Assurance Advisory \(March 28, 2011\)](#)<sup>iv</sup> and the [United States Computer Emergency Readiness Team's \(US-CERT\) Early Warning and Indicator Notice \(EWIN\) 11-077-01A Update](#).<sup>v</sup>*

### Fed redesigns/expands Current FAQs

The Federal Reserve Board has redesigned and expanded the [Current FAQs](#)<sup>vi</sup> (frequently asked questions) section of its website. New questions and answers address the Federal Reserve's roles and actions, currency and coin, consumer issues, the banking and financial system, and the economy.

Many answers link to related information and resources, and videos accompany some answers. Users can navigate the FAQs by topic. Questions and answers will be updated regularly and new entries will be added as needed. Users may submit ideas for new questions using an [online form](#)<sup>vii</sup>.

*Comment: These FAQs are primarily focused at consumers, not experienced bankers. They may have some benefit in training new employees.*

### OCC: Revised SCRA exam procedures

The OCC issued [revised examination procedures](#)<sup>viii</sup> for the Servicemembers Civil Relief Act of 2003 (SCRA). 50 USC App. 501 et seq. Recent amendments to the Housing and Economic Recovery Act of 2008 extended the time period for certain protections in the SCRA. In particular, the provision for an extended time period for protections affecting foreclosure, sale, or seizure of real or personal property remains effective through December 31, 2012. These revised procedures replace the SCRA procedures that were included in the "Other Consumer Protection Laws and Regulations" booklet of the Comptroller's Handbook.

### OCC workshops for directors in Kentucky and New York

The OCC will host [workshops for directors](#)<sup>ix</sup> of nationally chartered community banks and federal savings associations in Louisville, Kentucky, at the Seelbach Hilton, June 14-15, 2011.

The OCC will also host [workshops for directors](#)<sup>x</sup> of nationally chartered community banks and federal savings associations in New York at the Hilton New York, June 28-29, 2011.

The workshops cover risk assessment ("Directors: Where is the Risk in Your Bank") on June 28, and compliance risk ("Compliance Risk: What Directors Need To Know") on June 29

### Fraudsters concoct stories about relatives in financial peril overseas

Once again bank customers are being scammed with phone calls asking them to wire funds to help a family member overseas who is in some sort of trouble. In a couple of cases, the call was made to a grandmother. The "confidential" news is that their grandson is in trouble (ticket/drugs) and needs a wire of funds sent to Spain so he can get home. In each case, it is at least plausible that the grandson could have a problem. He is in fact out of town or in the military overseas. The caller further says that the grandson doesn't want anyone else in the

costs for banks with \$10 billion in asset or less that produce documents for law enforcement or investigative purposes;

- create a five-year rolling average of real estate loan appraisals for classifying loans during a downturn;
- direct the Federal Reserve to double its threshold to \$1 billion in consolidated assets for bank holding companies that are eligible for simplified capital requirements; and
- require the SEC to increase the threshold number of bank shareholders that trigger SEC registration from 500 to 2,000, and require the SEC to conduct a cost-benefit analysis before approving any accounting change.

To provide sensible tax relief, in addition to several meaningful refinements to the Wall Street Reform Act promoted by ICBA, the CFA would ...

- allow community banks to amortize losses on commercial real estate loans and other real estate owned over 10 years for regulatory capital purposes;
- extend the five-year net-operating-loss carryback provision, which would help community banks that suffered losses during the economic downturn.
- double the shareholder limit for Subchapter S corporations to 200;
- allow the use of preferred stock for Subchapter S corporation banks and allow IRA shareholders to invest in S corporation banks; and
- permit banks and bank holding companies under \$10 billion in assets to elect a limited liability company tax status, without a transition cost.

These are just highlights, of course. Details in any legislation matter substantially, right down to the

family to know because he is ashamed.

Alert tellers at one community bank suggested to their customers that it is worth the embarrassment to double check the story. Needless to say, when the grandson's parents were contacted, it turns out that there is no problem and no one is actually in Spain!

*Comment: This scam is not new and is not going away. Train your tellers to be on the watch for these sob stories and to help your customers by asking them to verify the story. The scam is probably the result of the grandson (or other family member) using the internet to send email out of an unsecure location (like an internet café where security is not good). The scammers are using sniffer technology to read the email (or email cache), looking for the names and contact info for vulnerable family members.*

### Dodd-Frank Act agency actions

*Note to the Reader: This 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. We encourage you to comment on proposals.*

#### Final rules:

**Final rule: Coverage of consumer protection regulations on credit transactions and leases expanded**

The Federal Reserve adopted two rules expanding the coverage of consumer protection regulations to credit transactions and leases of higher dollar amounts. The final rules amend [Reg. Z<sup>xi</sup>](#) and [Reg. M<sup>xii</sup>](#) (Consumer Leasing) to implement a provision of the Dodd-Frank Act.

*Comment: Effective July 21, 2011, the Dodd-Frank Act requires that the protections of the Truth in Lending Act and the Consumer Leasing Act apply to consumer credit transactions and consumer leases up to \$50,000, compared with \$25,000 currently. This amount will be adjusted annually to reflect any increase in the consumer price index.*

#### Proposed rules:

**Fed proposes Reg. Z rule on consumer ability to repay mortgage**

The Fed requested public comment on a [proposed rule under Reg. Z<sup>xiii</sup>](#) that would require creditors to determine a consumer's ability to repay a mortgage before making the loan and would establish minimum mortgage underwriting standards. The revisions are being proposed pursuant to the Dodd-Frank Act. The proposal would apply to all consumer mortgages (except home equity lines of credit, timeshare plans, reverse mortgages, or temporary loans).

The proposal would provide four options for complying with the ability-to-repay requirement.

First, a creditor can meet the general ability-to-repay standard by considering and verifying specified underwriting factors, such as the consumer's income or assets.

Second, a creditor can make a "qualified mortgage," which provides the creditor with special protection from liability provided the loan does not have certain features, such as negative amortization; the fees are within specified limits; and the creditor underwrites the mortgage payment using the maximum interest rate in the first five years. The Fed is soliciting comment on two alternative approaches for defining a "qualified mortgage."

Third, a creditor operating predominantly in rural or underserved areas can make a balloon-payment qualified mortgage. This option is meant to preserve access to credit for consumers located in rural or underserved areas where banks originate balloon loans to hedge against interest rate risk for loans held in portfolio.

Finally, a creditor can refinance a "non-standard mortgage" with risky features into a more stable "standard mortgage" with a lower monthly payment.

The proposal would also implement the Dodd-Frank Act's limits on prepayment penalties.

commas and semicolons. But it's worth learning about all of the CFA's provisions. Each is carefully designed to assist the greatest number of community banks as possible. Becoming familiar with all of them will help you rally to support them.

Demonstrated by the success of its earlier version, the Communities First Act shows that ICBA, with our state and regional association allies, can initiate creative, consequential policy solutions that significantly benefit the nation's community banks and Main Street America.



## FROM THE TOP

By Sal Marranca  
Chairman of ICBA

## OUR PRODUCT IS SERVICE

To hear industry consultants or news reports tell it, everyone out there is wearing out thumbs texting and twittering and making mobile deposits while driving. (Don't do that!) There's a growing demand for the latest technology of every kind, but let's not go overboard.

Our reputation as community bankers is conservative and cautious. True. To stay in business, we're also innovative and service-minded. We need to appeal to our social media customers on one hand and our Social Security customers on the other – to be high-tech and high-touch. In short, balanced.

Community banks have to be all things to all people—within reason. My bank is considering those ATMs that take deposits, but they're

*Comment: The Fed is soliciting comment on the proposed rule until July 22, 2011. General rulemaking authority for TILA is scheduled to transfer to the Consumer Financial Protection Bureau on July 21, 2011; therefore, this rulemaking will not be finalized by the Fed.*

### Proposed rule on credit risk retention

As reported last month, the OCC, Fed, FDIC, SEC, FHFA, and HUD (the Agencies) [proposed rules](#)<sup>xiv</sup> to implement the credit risk retention requirements of section 15G of the Securities Exchange Act of 1934 (15 U.S.C. 78o–11), as added by section 941 of the Dodd-Frank Act. Section 15G generally requires the securitizer of asset-backed securities to retain not less than five percent of the credit risk of the assets collateralizing the asset-backed securities. Section 15G includes a variety of exemptions from these requirements, including an exemption for asset-backed securities that are collateralized exclusively by residential mortgages that qualify as “qualified residential mortgages,” as such term is defined by the Agencies by rule.

*Comment: Comments must be received by June 10, 2011.*

### Proposed rule to repeal Reg. Q

As reported last month, the Federal Reserve requested comment on a [proposed rule](#)<sup>xv</sup> to repeal the Board's Regulation Q.

*Comment: Comments on the proposal were due by May 16, 2011.*

### Proposed Reg. Z rule on incentive based compensation arrangements

As reported last month, the OCC, Board, FDIC, OTS, NCUA, SEC, and FHFA [proposed rules](#)<sup>xvi</sup> to implement section 956 of the Dodd-Frank Act.

*Comment: The agencies requested comments on the proposed rule by May 31, 2011.*

### Publications, reports, studies, testimony & speeches

- **FEMA: Flood Insurance Manual**

FEMA has issued its latest edition of the [NFIP Flood Insurance Manual](#)<sup>xvii</sup>. It includes program changes that became effective on May 1, 2011.

*Comment: Significant changes include the following:*

- *Removes references to “estimated” Base Flood Elevation in Unnumbered A Zones (all sections).*
- *Details eligibility requirements for buildings over water (GR Section).*
- *Clarifies instructions for calculating the policy effective date (GR Section).*
- *Describes documentation requirements for transferring business (GR Section).*
- *Provides illustrated, step-by-step instructions for completing the Flood Insurance Application and Preferred Risk Policy Application (APP and PRP Sections).*
- *Clarifies instructions throughout the building drawings (LFG Section).*
- *Specifies when the garage floor may be excluded for rating for a single-family dwelling in an A Zone (LFG Section).*
- *Updates the listing of Coastal Barrier Resource Areas and Otherwise Protected Areas (CBRS Section).*
- *Updates the Community Rating System Eligible Communities list (CRS Section).*

- **FDIC issues tips for shopping for bank products and services**

The FDIC issued tips to help consumers shop for a variety of bank products and services by carefully evaluating their needs, contacting multiple institutions and reading the fine print before making a decision. The advice was published as a special edition of the quarterly [FDIC Consumer News \(the Spring 2011 issue\)](#)<sup>xviii</sup>, which is entitled "Shop and Save...at the Bank: A Buyer's Guide to Finding the Right Loan, Credit Card or Deposit Account."

- **FedFocus**

The May 2011 issue of [FedFocus](#)<sup>xix</sup> contains articles on Technology transitions paving the road to the future, Enhanced FedLine user authentication, Ensuring end-to-end processing, the future of FedCash Services, and Web technology putting events and education and our fingertips.

expensive. Some banks don't even have online bill pay, debit cards or telebanking. Has your bank set priorities for such advances? Have you discussed the plan with your board?

When it comes to its member product and service programs, ICBA has to balance the needs of its different members just as we community bankers have to balance the needs of different customers. Not every community bank has the budget for the latest, greatest stuff—but because we're all in this industry together, we don't want ICBA's product and service options to price out the littlest banks. And we want plenty of goodies that every community bank can use, just as we share our mission of serving our customers in towns and cities across America—no matter what their size.

The most obvious products are tangible ones, such as the resources of the ICBA Services Network: ICBA Bancard and TCM Bank, ICBA Mortgage, ICBA Securities and ICBA Reinsurance. About 85 percent of member banks use one of these products or services every year, and from that our members see \$255 million in savings, revenue and dividends annually.

Speaking of both products and services, the hard-working ICBA Services Network staff hundreds of hours into bringing us, currently, 28 ICBA Preferred Service Providers vetted for member need, financial stability and national distribution capability. That in turn saves us and our colleagues hours of due diligence on these companies to be sure they're worthy of our trust and our banks' investment.

Services from ICBA that show up in our lobbies include marketing for Community Banking Month, the "I Love My Community Bank" campaign and perhaps this very magazine, if it's not dog-eared in the boardroom or employee break room. Customers don't see the webinars, the conferences, the great service you get by phone or email from our information center—but they see the results in our work.

- **FDIC Supervisory Insights**

The May, 2011, edition of the [FDIC's Supervisory Insights](#)<sup>xx</sup> is now available and is described as a Special Foreclosure Edition.

*Comment: This edition describes lesson learned from an interagency review of foreclosure practices at the 14 largest residential mortgage servicers and includes examples of effective mortgage servicing practices derived from these lessons. The edition includes a section on best practices for state nonmember banks.*

- **HUD issues April RESPA Roundup**

HUD has issued the April edition of its [RESPA Roundup](#)<sup>xxi</sup>.

- **FinCEN**

FinCEN has published:

[SAR Activity Review – By the Numbers](#)

[SAR Activity Review: Tips & Issues](#)<sup>xxii</sup>

- **FedFlash**

April [FedFlash](#)<sup>xxiii</sup> includes enhancements to the FedMail access solution, upcoming Fedline user authenticatino enhancements, business continuity planning, Ulysses Grant \$1 coin, information for paper check depositors, changes in presentment transportation.

**How to submit comments to your federal regulators:**

**Office of the Comptroller of the Currency:** Because paper mail in the Washington, DC area and at the OCC is subject to delay, commenters are encouraged to submit comments by the Federal eRulemaking Portal or e-mail, if possible. Please use the title in the Federal Register publication of the proposal. You may submit comments by any of the following methods:

- Federal eRulemaking Portal—Regulations.gov: Go to
- <http://www.regulations.gov>. Select "Document Type" of "Proposed Rule", and in "Enter Keyword or ID Box", enter the docket number found in the Federal Register publication of the proposed rule and click "Search." On "View By Relevance" tab at bottom of screen, in the "Agency" column, locate the proposed rule for OCC, in the "Action" column, click on "Submit a Comment" or "Open Docket Folder" to submit or view public comments and to view supporting and related materials for this proposed rule.
- Click on the "Help" tab on the Regulations.gov home page to get information on using Regulations.gov, including instructions for submitting or viewing public comments, viewing other supporting and related materials, and viewing the docket after the close of the comment period.
- E-mail: [regs.comments@occ.treas.gov](mailto:regs.comments@occ.treas.gov)
- Mail: Office of the Comptroller of the Currency, 250 E Street, SW., Mail Stop 2-3, Washington, DC 20219.
- Fax: (202) 874-5274.
- Hand Delivery/Courier: 250 E Street, SW., Mail Stop 2-3, Washington, DC 20219.

*Instructions:* You must include "OCC" as the agency name and the docket number in your comment. In general, OCC will enter all comments received into the docket and publish them on the Regulations.gov Web site without change, including any business or personal information that you provide such as name and address information, e-mail addresses, or phone numbers. Comments received, including attachments and other supporting materials, are part of the public record and subject to public disclosure.

Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

**Board of Governors of the Federal Reserve System:** You may submit comments, identified by the docket number and the RIN number found in the Federal Register publication of the rule proposal, by any of the following methods:

- Agency Web Site: <http://www.federalreserve.gov>. Follow the instructions for

And it's the same in ICBA's whole purpose, to bring all of us together as one to share what we know and to gain strength in numbers. The organization's product is its service to us, whether in pushing our agenda with the White House or regulators ... educating legislative staff about a bill's implications for business ... crafting op-eds to show voters public why their senator is right ... reading the fine print to catch trouble early ... and on and on.

The public never sees all that, either, but eventually, we hope, the good results show up in the products and services we are able to offer to our own customers on Main Street.

Sal Marranca is president and CEO of Cattaraugus County Bank in Little Valley, N.Y.



By Jim Reber  
President/CEO of ICBA Securities

## AN INVESTOR'S GUIDE TO FEDSPEAK

### How the bond market reacted in 2004

It's hard to believe, but as of this writing it has now been seven full years since the Federal Reserve's Federal Open Market Committee last voted to raise interest rates. The date was June 30, 2004, and it was both the culmination of a year's worth of speculation as to be first move, and the beginning of an extended period of actual rate hikes.

Interest rates bottomed out a year earlier in June 2003, when Fed

submitting comments at <http://www.federalreserve.gov/generalinfo/foia/ProposedRegs.cfm>.

- Federal eRulemaking Portal: <http://www.regulations.gov>. Follow the instructions for submitting comments.
- E-mail: [regs.comments@federalreserve.gov](mailto:regs.comments@federalreserve.gov). Include the docket number and RIN number in the subject line of the message.
- Fax: (202) 452-3819 or (202) 452-3102.
- Mail: Address to Jennifer J. Johnson, Secretary, Board of Governors of the Federal Reserve System, 20th Street and Constitution Avenue, NW., Washington, DC 20551.

**Federal Deposit Insurance Corporation:** You may submit comments, identified by RIN number, by any of the following methods:

- Agency Web Site: <http://www.FDIC.gov/regulations/laws/federal/propose.html>.
- Follow instructions for submitting comments on the Agency Web Site.
- E-mail: [Comments@FDIC.gov](mailto:Comments@FDIC.gov). Include the RIN number on the subject line of the message.
- Mail: Robert E. Feldman, Executive Secretary, Attention: Comments, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.
- Hand Delivery: Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7:00 a.m. and 5:00 p.m.

*Instructions:* All comments received must include the agency name and RIN for this rulemaking and will be posted without change to <http://www.fdic.gov/regulations/laws/federal/propose.html>, including any personal information provided.

**Office of Thrift Supervision:** You may submit comments, identified by docket number found in the Federal Register publication of the proposed rule, by any of the following methods:

- Federal eRulemaking Portal – Regulations.gov: Go to <http://www.regulations.gov> and follow the directions.
- E-mail: [regs.comments@ots.treas.gov](mailto:regs.comments@ots.treas.gov). Please include the Docket number in the subject line of the message and include your name and telephone number in the message.
- Mail: Regulation Comments, Chief Counsel's Office, Office of Thrift Supervision, 1700 G Street, NW., Washington, DC 20552, Attention: [Insert docket number]
- Facsimile: (202) 906-6518.
- Hand Delivery/Courier: Guard's Desk, East Lobby Entrance, 1700 G Street, NW., from 9 a.m. to 4 p.m. on business days, Attention: Regulation Comments,
- Chief Counsel's Office, Attention: [Insert docket number].

*Instructions:* All submissions received must include the agency name and docket number for this rulemaking. All comments received will be entered into the docket and posted on Regulations.gov without change, including any personal information provided. Comments, including attachments and other supporting materials received, are part of the public record and subject to public disclosure.

Do not enclose any information in your comment or supporting materials that you consider confidential or inappropriate for public disclosure.

#### Selected upcoming federal compliance dates:

- |            |   |
|------------|---|
| 07.01.2011 | <a href="#">FDIC Overdraft Payment Supervisory Guidance</a> . <sup>xxiv</sup> 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.  |
| 07.21.2011 | <b>The final rules amend <a href="#">Reg. Z</a><sup>xxv</sup> and <a href="#">Reg. M</a><sup>xxvi</sup> (Consumer Leasing) to implement a provision of the Dodd-Frank Act, which requires Truth in Lending Act and the Consumer Leasing Act apply to consumer credit transactions and consumer leases up to \$50,000, compared with</b> |

Funds were set at 1.00 percent; that marked a generational low. The Treasury market, especially shorter maturities, responded in kind, and money-market yields were barely equal to Fed Funds. The curve was steep, to be sure, which signaled investor skepticism over longer term inflation risk. Sound familiar?

While we may be months and quarters away from the next actual Fed hike, it may be time to review how the bond market reacted to Fed statements in the months leading up to the June 2004 move. It's interesting to note how far ahead of the FOMC that bond investors can actually get when they attempt to read between the lines. It could also be helpful to your investing strategies as we approach the inevitable tightening cycle.

### Top O' the Market

On June 30 2003, if you were a portfolio manager, you had both a lot of unrealized gains in your portfolio and low available yields. The two-year Treasury note yielded 1.30%, and one had to go out to five years to get to a 2.50% yield. Our senses have been numbed by the past two years, but the yields mentioned above were the lowest the bond market had seen in at least 50 years.

The FOMC's statements that accompanied their meetings were of the "downside risks outweigh the probability of sustained growth" variety. GDP growth was positive, and we clearly weren't in a recession, but inflation was hovering around 2% and falling.

By the end of 2003, economic growth was improving, but not yet to the FOMC's satisfaction. However, inflation was beginning to show signs of returning, so the Fed's statements were essentially unchanged for the rest of the year. The bond market sensed a shift was approaching, and the two-year Treasury's yield had risen 52 basis points to 1.82%

**\$25,000 currently. This amount will be adjusted annually to reflect any increase in the consumer price index.**

- 07.22.2011 Effective date of the repeal of Reg Q's prohibition on payment of interest on commercial checking accounts. A rule has been [proposed](#)<sup>xxvii</sup> to implement this.
- 10.01.2011 Clarification of [Reg Z](#)<sup>xxviii</sup> Credit Card Act and official staff commentary. Creditors may voluntarily comply sooner.
- 03/15/2012 ATMs must comply with the communication requirements of the [ADA and ABA Accessibility Guidelines for Buildings and Facilities](#)<sup>xxix</sup>.

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

**Selected federal compliance dates from the not-so-distant past:  
Our list of past final rule effective dates is limited to 12 months.**

- 05.01.2011 [Interim final rule](#)<sup>xxx</sup> 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.
- 04.01.2011 [Final rule](#)<sup>xxxi</sup> 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](#)<sup>xxxii</sup> – 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](#)<sup>xxxiii</sup> 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](#)<sup>xxxiv</sup> 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.**
- 03.28.2011 FinCEN [final rule](#)<sup>xxxv</sup> to amend BSA regulations regarding reports of foreign financial accounts.
- 03.15.2011 [Nondiscrimination on the Basis of Disability Final Rules](#)<sup>xxxvi</sup> – Effective dates of new [ADA requirements for ATMs](#)<sup>xxxvii</sup>.
- 01.31.2011 [Reg. E](#)<sup>xxxviii</sup> – This is the delayed effective date pursuant to [H.R. 5502](#)<sup>xxxix</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.
- 01.30.2011 [Reg Z](#)<sup>xl</sup> –The interim rule revising the disclosure requirements for closed-end mortgage loans is effective for all applications received on or after January 30, 2011.

by December 31.

### Change in Tenor

About this time, the FOMC's statements shifted to subtle warnings. The March 31, 2004 release stated "...upside and downside risks...are roughly equal" but it "...can be patient in removing its policy accommodation." By the May 4 2004 meeting, the language was less ambiguous. It read, in part, "the Committee believes that policy accommodation [read: low rates] can be removed at a pace that is likely to be measured."

The bond market was battered as investors began building in full expectations for rate hikes sooner than later. The two-year's yield rose to 2.20%, even though Fed Funds were still anchored at 1.00%. This is an enormous difference between the two, which is normally about 45 basis points.

### Flattening of the Curve

The first shoe fell on June 30, 2004. Fed Funds rose to 1.25% after the FOMC's statement that repeated the "likely to be measured" phrase from May, and added the sentence "The Committee will respond to changes...to fulfill its obligation to maintain price stability."

By the close on June 30, the two-year had risen all the way to 2.68%. Clearly, the short end of the market was many meetings ahead of the Fed. As is typical in a rising rate environment, yields on the longer end rose much less. The final accounting is that for the 12-month period ending June 30, 2004, the two- to ten-year curve flattened by 31 basis points. And that was followed by additional flattening through 2006.

### Conclusions

These should be pretty obvious. One, when this FOMC's language removes the "for an extended period" language to their press releases, it will be a clear signal to the market that rate hikes are coming sooner than later. For another, the steepness of today's curve will certainly begin to undo itself

01.03.2011	<a href="#">Official FDIC sign<sup>xli</sup></a> – New FDIC signs must be posted showing the \$250,000 minimum insurance amount.
01.01.2011	<a href="#">FACT Act<sup>xlii</sup></a> – 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	<a href="#">Reg. Z<sup>xliii</sup></a> – 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<sup>xliv</sup></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<sup>xlv</sup></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<sup>xlvi</sup></a> effective.
10.01.2010	<a href="#">Reg. Z<sup>xlvii</sup></a> – Escrow required on higher priced mortgage loans on <a href="#">manufactured homes</a> .
10.01.2010	<a href="#">Reg. DD<sup>xlviii</sup></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<sup>xlix</sup></a> – 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. –EFFECTIVE DATE DELAYED TO JANUARY 31, 2011.</del>
08.22.2010	<a href="#">Reg. Z<sup>l</sup></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<sup>li</sup></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<sup>lii</sup></a> – This is the mandatory compliance date for all provisions of the final rule on <a href="#">open end credit</a> 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)<sup>liii</sup></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

Less subtle are the effects on your portfolio. Normally, as rates rise, yield spreads tighten, and durations extend. The drop in market prices is often as pronounced on short (e.g., two year maturities) as they are on longer ones, compliments of the flattening curve.

The recommendations therefore are to stay attuned to the Fed's statements as they are released, as they have become less opaque under the Bernanke regime. And continue to monitor your portfolio's price volatility, especially in the "rates up" scenarios.

ICBA Securities' clearing broker Vining Sparks publishes a periodical real-time analysis of major economic press releases, *Economic Flash*.

07.01.2010

minimum are allocated. Restriction on when credit card rates may change. Finance charges on previous billing cycles limited. Security deposits and fees limited.

[Reg. E](#) – The final rule limits the ability of a financial institution to assess an [overdraft fee](#) for paying ATM and one-time debit card transactions that overdraw a consumer's account, unless the consumer affirmatively consents, or opts in, to the institution's payment of overdrafts for these transactions. (Further amendments to [Reg. E](#)<sup>liv</sup> and [Reg. DD](#)<sup>lv</sup> have been proposed to clarify the initial Reg. E amendments.)

07.01.2010

[FACT Act \(Fair and Accurate Credit Transactions Act\)](#)<sup>lvi</sup> – 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](#)<sup>lvii</sup> pursuant to Executive Order 13496

06.01.2010

[Reg. GG \(Prohibition on Funding of Unlawful Internet Gambling\)](#)<sup>lviii</sup> – 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 \(Extension of compliance date\)](#)<sup>lix</sup>

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