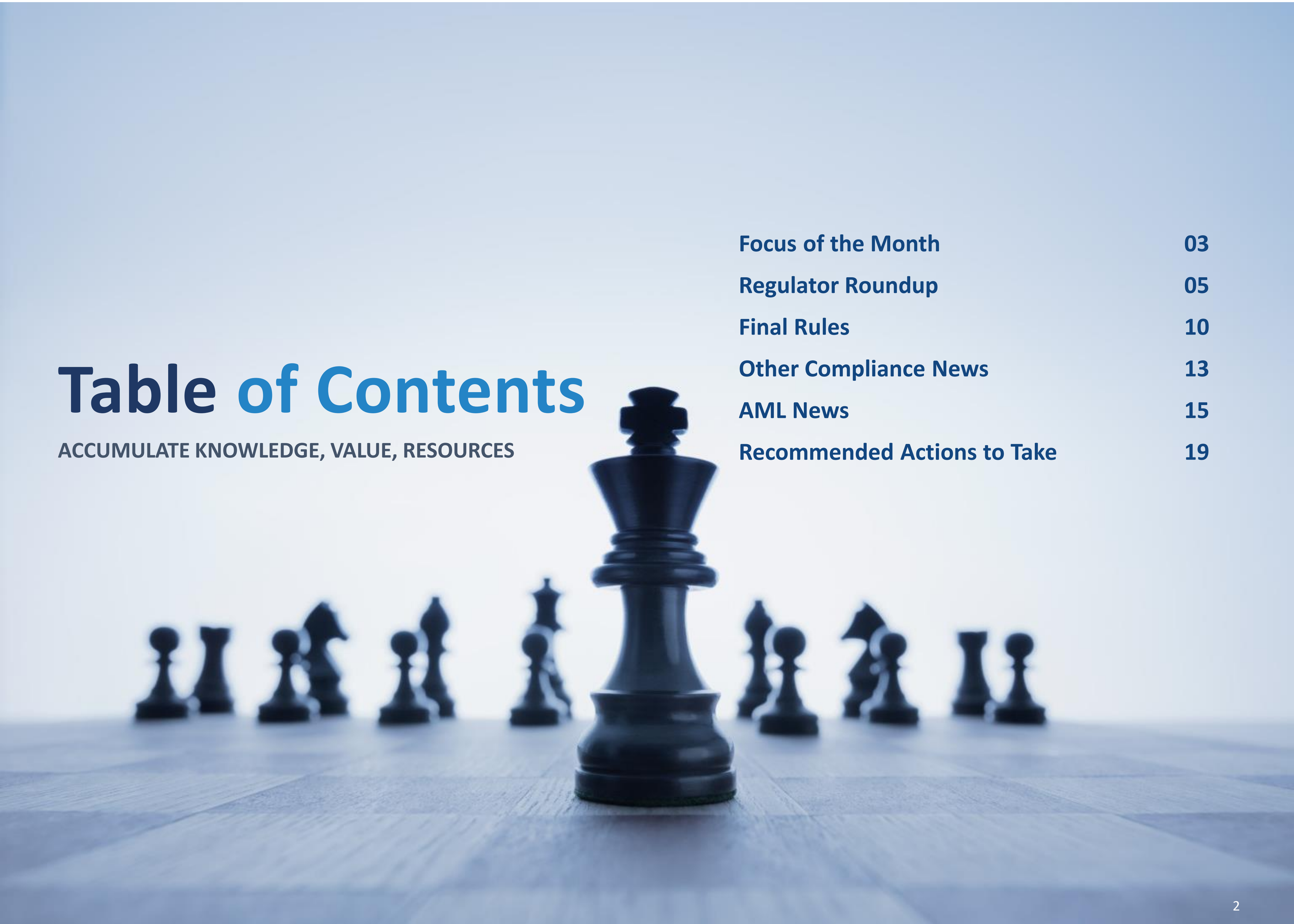
Compliance Monthly

Compliance Monthly is intended to keep you informed of regulatory changes in advance of their effective date so your institution can have the necessary policies, procedures and processes in place to be compliant at the time of enactment. Information contained in Compliance Monthly is not intended to provide specific advice and guidance. You should consult your own professional services provider in connection with matters affecting your own interests.

November 2021

Table of Contents

ACCUMULATE KNOWLEDGE, VALUE, RESOURCES



Focus Of the Month

What are Your Risk Priorities for 2022?

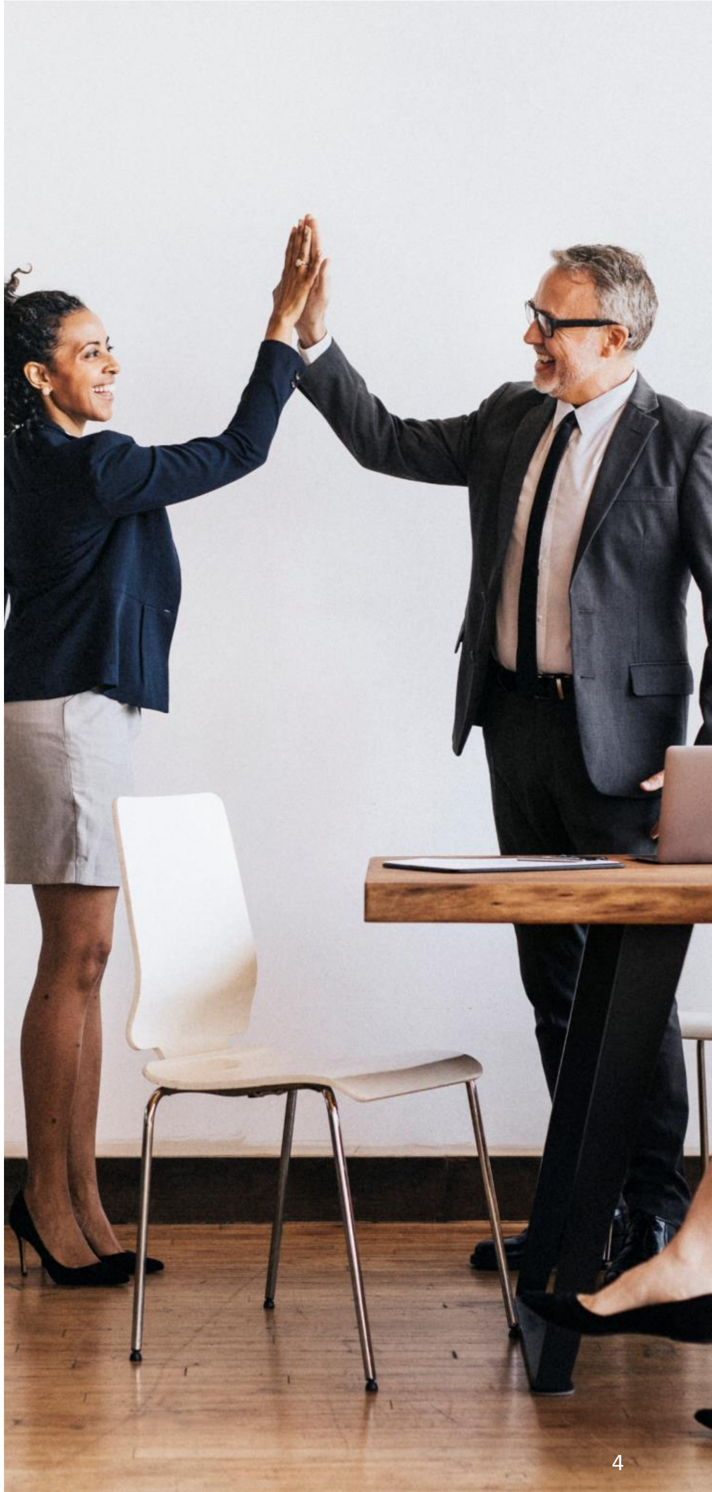
Ensuring that your risk strategy aligns with regulatory focus

Recently, the OCC released its fiscal planning strategy guidance for 2022. Financial institutions, even those not regulated by the OCC, should review their current compliance and risk management programs to ensure adequate focus on these areas. Consideration should be given to current and future resource allocation/adequacy, technology support, internal controls and vendor oversight that will be needed to build and strengthen your current program. The impacts of the pandemic and resulting economic, financial, operational, and compliance implications should be analyzed. Specifically, regarding BSA and compliance, the strategy will focus on:

- BSA/AML and Office of Foreign Assets Control:
  - Evaluating the effectiveness of BSA/AML risk management systems relative to the complexity of business models, products and services offered, and customers and geographies served
  - Evaluating technology and modeling solutions to perform or enhance BSA/AML oversight functions
  - Determining the adequacy of suspicious activity monitoring and reporting systems and processes in providing meaningful information to law enforcement
  - Change management plans for implementing changes to existing BSA/AML compliance programs that will be required regulatory changes to implement the Anti-Money Laundering Act of 2020
- Consumer Compliance:
  - Compliance management systems
    - Third-party risk management and
    - Higher risk products and services such as overdraft protection programs, particularly on how the programs are implemented and how terms of the programs are disclosed
  - The effect that earnings pressure on the compliance risk management functions, if any, through cutting personnel or waiving audits
- Fair lending:
  - Assessing fair lending risk, considering changes to the bank's products, services, and operating environments based upon the bank's fair lending risk profile and the annual Home Mortgage Disclosure Act data screening process.
  - Fair lending through the full lifecycle of credit products (e.g., mortgages)
- Community Reinvestment Act:
  - OCC Bulletin 2020-99, "Community Reinvestment Act: Key Provisions of the June 2020 CRA Rule and Frequently Asked Questions," provides updated guidance following issuance of the OCC's June 2020 rule.

Focus Of the Month

- Oversight
  - Strategic and operational planning
  - Management and the board understanding of the impact of new activities on financial performance, strategic planning process, and risk profile
- Credit
  - Management of credit risk given changes in market condition, termination of pandemic-related forbearance, uncertainties in the economy, and the lasting impacts of the COVID-19 pandemic
  - Evaluation of underwriting practices on new or renewed loans for easing in structure and terms.
  - New products, areas of highest growth, or portfolios that represent concentrations
  - Effects of the pandemic on loan portfolios and changes in market conditions
- Allowance for loan and lease losses (ALLL)/allowance for credit losses (ACL):
  - ALLL and ACL adequacy considering any stress on credit portfolios
  - Current expected credit losses (CECL) accounting standard adoption and implementation
  - Post-hardship performance of borrowers assisted with streamlined deferral and loan modifications
- Cybersecurity:
  - Operational risk, resilience, incident response, and data recovery and business resumption
  - Capabilities to recover from destructive malware attacks
  - Threat vulnerability and detection, authentication and access controls, network management, data management, and managing third-party access
- Third parties and related concentrations
  - Proper oversight of their significant third-party relationships, including partnerships. Examiners should identify where those relationships are critical to bank operations and understand whether they represent significant concentrations or impact resiliency
  - Cyber-related risks emanating from third parties and the financial institution assessments of the third party's cybersecurity risk management and resilience capabilities
- Interest rate risk:
  - Impact of a low-rate environment on banks' business models, strategies, asset and liability risk exposures, net interest margin, funding stability, and modeling capabilities
- London Interbank Offered Rate (LIBOR):
  - Implementation and execution of alternative reference rates given the December 30, 2021, cessation of LIBOR
  - Financial Institution's understand all their exposures and remediation efforts. Operational, reputation, and consumer impact assessments and change management related to an alternative index for pricing loans, deposits, and other products and services



Focus Of the Month

accume partners

- Payments:
    - Payment systems focusing on new or novel products, services, or channels for wholesale and retail customer relationships
    - Potential risks including operational, compliance, strategic, credit, and reputation and how these risks are incorporated into institution-wide risk assessments and new product review processes.
- Fintech/Cryptocurrency:
    - Impact of the use and implementation of new technological innovations, including cloud computing, artificial intelligence, and digitalization
    - The appropriateness of governance processes for significant changes
- Climate:
    - Financial risks and impacts associated with climate change (emerging issue)

Regulator Roundup

Revised Interagency Examination Procedures for Regulation Z

On October 25, 2021, the Task Force on Consumer Compliance of the Federal Financial Institutions Examination Council published revised interagency examination procedures for Regulation Z – Truth in Lending (TILA). The revised procedures reflect amendments to Regulation Z published by the Consumer Financial Protection Bureau in 2020 and 2021:

- implementing permanent changes to Regulation Z's qualified mortgage provisions, and
- implementing an extension and phase-out for the GSE Patch, which had originally carried a January 10, 2021 sunset date under the Ability to Repay/Qualified Mortgage rule and which will now sunset on October 1, 2022.

Source: https://www.federalreserve.gov/supervisionreg/caletters/CA%2021-14%20Attachment%20Draft%20Interagency%20TILA%20Exam%20Narrative%20and%20Procedures%20(Copy%20Edited).pdf

Community Reinvestment Act: Frequently Asked Questions Regarding Notice of Proposed Rulemaking to Rescind the OCC's June 2020 CRA Rule

On October 26,2021, the OCC issued responses to frequently asked questions (FAQ) about a notice of proposed rulemaking soliciting comments on the proposal to rescind the OCC's Community Reinvestment Act (CRA) rule issued on June 5, 2020 (June 2020 CRA rule). The notice, which was published in the Federal Register on September 17, 2021, proposes that the June 2020 CRA rule largely be replaced with the rules adopted jointly by the OCC, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation in 1995, as revised. The FAQs provide general information on the rulemaking process and timeline of events. The FAQs also address:

- the impact of the proposed rule on CRA bank type.
- qualifying activities and the qualifying activity confirmation request system.
- the transition period.
- examination administration.
- assessment areas.
- targeted geographic areas.
- strategic plans.
- public comments.

Source: https://www.occ.gov/news-issuances/bulletins/2021/bulletin-2021-50.html

Retail Lending: Revised Comptroller's Handbook Booklet and Rescissions

On October 28, 2021, the OCC issued version 2.0 of the "Retail Lending" booklet of the Comptroller's Handbook. This booklet discusses risks associated with retail lending and provides a framework for examiners' evaluations of risk management activities. The revised booklet:

- reflects changes to laws and regulations since this booklet was last updated.
- reflects OCC issuances published and rescinded since this booklet was last updated.
- includes clarifying edits regarding supervisory guidance, sound risk management practices, and legal language.
- revises certain content for general clarity

Source: https://www.occ.gov/news-issuances/bulletins/2021/bulletin-2021-52.html

OCC Issues Revised Payment Systems Booklet

On October 21, 2021, the OCC issued a revised "Payment Systems" booklet of the Comptroller's Handbook, which is prepared for use by OCC examiners in connection with the examination and supervision of national banks, federal savings associations, and federal branches and agencies of foreign banking organizations (collectively, banks). Highlights of the booklet:

- provides examiners with information regarding payment systems, types of payments, risks associated with payment systems, and associated risk management practices.
- discusses requirements of 12 CFR 7.1026 regarding payment systems memberships.
- includes expanded examination procedures for examiners to use when assessing payment products and services.
- includes supplemental procedures for deeper review of certain payment activities.

Source: https://www.occ.gov/publications-and-resources/publications/comptrollers-handbook/files/payment-sys-funds-transfer-activities/index-payment-systems-funds-transfer-activities.html

CFPB Releases 2022 HMDA Filing Instructions

On October 20, 2021, the CFPB released the 2022 HMDA Filing Instructions.

Source: https://s3.amazonaws.com/cfpb-hmda-public/prod/help/2022-hmda-fig.pdf

OCC's Fiscal Year 2022 Bank Supervision Operating Plan

On October15, 2021, OCC released its bank supervision operating plan for fiscal year (FY) 2022. The plan provides the foundation for policy initiatives and for supervisory strategies as applied to individual national banks, federal savings associations, federal branches, federal agencies, and technology service providers. OCC staff members use this plan to guide their supervisory priorities, planning, and resource allocations. Supervisory strategies for FY 2022 focus on:

- strategic and operational planning to ensure banks maintain stable financial positions.
- credit risk management, allowances for loan and lease losses, and allowances for credit losses.
- cybersecurity and operational resilience.
- oversight of third parties and related concentrations.
- Bank Secrecy Act/anti-money laundering (BSA/AML) compliance management.
- consumer compliance management systems and fair lending risk.
- Community Reinvestment Act performance.
- the impact of a low-rate environment and the transition to alternative reference rates given the cessation of LIBOR.
- payment systems products and services.
- fintech partnerships for potential cryptocurrency-related activities and other services.
- climate change risk management.

Source: https://www.occ.gov/news-issuances/news-releases/2021/nr-occ-2021-106a.pdf

CFPB Issues Debt Collection Rule FAQs

On October 4, 2021,he CFPB released a compliance aid regarding debt collection practices. The FAQ addresses the following:
The FAQs addresses the following topics:

- Limited-Content Messages
- Telephone Call Frequency
- Telephone Call Frequency: Presumptions
- Telephone Call Frequency: Excluded Calls
- Telephone Call Frequency: Rebutting the Presumptions

Source: https://www.consumerfinance.gov/compliance/compliance-resources/other-applicable-requirements/debt-collection/debt-collection-rule-faqs/

LIBOR Transition

On October 20, 2021, five federal financial institution regulatory agencies, in conjunction with the state bank and state credit union regulators, (collectively, agencies) jointly issued a statement to emphasize the expectation that supervised institutions with LIBOR exposure continue to progress toward an orderly transition away from LIBOR. Additionally, this statement includes clarification regarding new LIBOR contracts, considerations when assessing appropriateness of alternative reference rates, and expectations for fallback language. Failure to adequately prepare for LIBOR's discontinuance could undermine financial stability and institutions' safety and soundness and create litigation, operational, and consumer protection risks.

Source: https://files.consumerfinance.gov/f/documents/cfpb_interagency-libor-transition_statement_2021-10.pdf

LIBOR Transition: Updated Self-Assessment Tool for Banks

On October 18, 2021, the OCC issued a bulletin providing an updated self-assessment tool for banks to evaluate their preparedness for the cessation of the London Interbank Offered Rate (LIBOR).

Source: https://www.occ.gov/news-issuances/bulletins/2021/bulletin-2021-46.html

3

Final Rules

Final Rulemaking to Amend the Real Estate Lending Standards

On October 21, 2021, the FDIC Board of Directors adopted a final rule to amend the Interagency Guidelines for Real Estate Lending Policies to incorporate consideration of the capital framework established in the community bank leverage ratio (CBLR) rule into the method for calculating the ratio of loans in excess of the supervisory loan-to-value limits (LTV limits). The amendment provides a consistent approach for calculating the ratio of loans in excess of the supervisory LTV limits at all FDIC-supervised institutions without requiring the computation of total capital. Highlights include:

- The Interagency Guidelines for Real Estate Lending Policies, Appendix A to Subpart A of the FDIC's Real Estate Lending Standards Regulation (Appendix) establishes supervisory LTV criteria for various real estate lending transaction types, but also allows exceptions to the supervisory LTV limits, measured against total capital, as defined in the capital rules.
- Revises the Appendix so that all FDIC-supervised institutions calculate the ratio of loans in excess of the supervisory LTV limits using tier 1 capital plus the appropriate allowance for credit losses in the denominator, regardless of an institution's CBLR election status.
- Provides a consistent approach for calculating the ratio of loans in excess of the supervisory LTV limits at all FDIC-supervised institutions and would approximate the historical methodology for calculating the ratio of loans in excess of the supervisory LTV limits.
- Adopted without any changes from the notice of proposed rulemaking published on June 25, 2021.
- The final rule will become effective 30 days after publication in the Federal Register.

Source: https://www.govinfo.gov/content/pkg/FR-2021-10-27/pdf/2021-23381.pdf

Extension of Time and Required Disclosures for Notification of Nonpayment of Rent

On October 7, 2021, HUD issued an interim final rule. This interim final rule applies when, during emergencies such the current COVID-19 pandemic, Federal funding is available to assist tenants with nonpayment of rent and tenants facing eviction for nonpayment of rent in public housing and properties with project-based rental assistance (PBRA) (for purposes of this rule, PBRA includes projects in the following programs: Section 8, Section 8 Moderate Rehabilitation, Section 202/162 Project Assistance Contract, Section 202 Project Rental Assistance Contract (PRAC), Section 811 PRAC, Section 236 RentalStart Printed Page 55694Housing Assistance Program and Rent Supplement) need sufficient time and information to seek and receive such emergency rent relief. This interim final rule will allow the Secretary, upon making the requisite findings and providing the requisite notice, to require housing providers participating in those programs to provide tenants facing eviction for non-payment of rent with notification of and information about the opportunity to secure emergency funding and additional time to secure such funding prior to eviction.

Source: https://www.federalregister.gov/documents/2021/10/07/2021-21960/extension-of-time-and-required-disclosures-for-notification-of-nonpayment-of-rent

Other Compliance News

Justice Department Announces New Initiative to Combat Redlining

On October 22, 2021, the Justice Department announced the launch of the department's new Combatting Redlining Initiative today. Redlining is an illegal practice in which lenders avoid providing services to individuals living in communities of color because of the race or national origin of the people who live in those communities. The new Initiative represents the department's most aggressive and coordinated enforcement effort to address redlining, which is prohibited by the Fair Housing Act and the Equal Credit Opportunity Act.

This Initiative, which will be led by the Civil Rights Division's Housing and Civil Enforcement Section in partnership with U.S. Attorney's Offices, will build on the longstanding work by the division that seeks to make mortgage credit and homeownership accessible to all Americans on the same terms, regardless of race or national origin and regardless of the neighborhood where they live. The Initiative will:

- Utilize U.S. Attorneys' Offices as force multipliers to ensure that fair lending enforcement is informed by local expertise on housing markets and the credit needs of local communities of color.
- Expand the department's analyses of potential redlining to both depository and non-depository institutions. Non-depository lenders are not traditional banks and do not provide typical banking services, but engage in mortgage lending and now make the majority of mortgages in this country.
- Strengthen our partnership with financial regulatory agencies to ensure the identification and referrals of fair lending violations to the Department of Justice.
- Increase coordination with State Attorneys General on potential fair lending violations.

Source: **https://www.justice.gov/opa/pr/justice-department-announces-new-initiative-combat-redlining**

FDIC Releases New Tool to Build Financial Capability

On October 14, 2021, the FDIC released How Money Smart Are You? This suite of 14 self-paced games and related resources is the newest addition to FDIC's Money Smart product family. This new educational tool provides practical knowledge to help consumers manage their finances with confidence. Users play games to learn more about borrowing money, managing debt, saving and investing. How Money Smart Are You? complements other Money Smart products that can be used in in conjunction with financial literacy activities, including webinars or workshops, in local communities. These products include resources to engage K-12 students, adults, older adults, and small businesses.

Source: **https://www.fdic.gov/news/financial-institution-letters/2021/fil21069.html**

AML News

FinCEN Renews Real Estate Geographic Targeting Orders for 12 Metropolitan Areas

On October 29, 2021, FinCEN announced the renewal of its Geographic Targeting Orders (GTOs) that require U.S. title insurance companies to identify the natural persons behind shell companies used in all-cash purchases of residential real estate. The purchase amount threshold remains $300,000 for each covered metropolitan area.

The terms of this Order are effective beginning November 1, 2021, and ending on April 29, 2022. GTOs continue to provide valuable data on the purchase of residential real estate by persons possibly involved in various illicit enterprises. Renewing the GTOs will further assist in tracking illicit funds and other criminal or illicit activity, as well as inform FinCEN's future regulatory efforts in this sector.

The GTOs cover certain counties within the following major U.S. metropolitan areas: Boston; Chicago; Dallas-Fort Worth; Honolulu; Las Vegas; Los Angeles; Miami; New York City; San Antonio; San Diego; San Francisco; and Seattle.

Source: https://www.fincen.gov/news/news-releases/fincen-renews-real-estate-geographic-targeting-orders-12-metropolitan-areas

Exceptive Relief for Casinos from Certain Customer Identity Verification Requirements

On October 19, 2021, FinCEN granted limited exceptive relief under the authority set forth in 31 U.S.C. § 5318(a)(7) and 31 CFR § 1010.970(a) to casinos from certain customer identity verification requirements in the context of online gaming. Specifically, under the terms of this relief, a casino may utilize suitable non-documentary methods to verify the identity of online customers. The suitability or non-suitability of any particular method should be evaluated based on risk.

Source: https://www.fincen.gov/sites/default/files/2021-10/Casino%20Exceptive%20Relief%20101921_0.pdf

FATF Identifies Jurisdictions with Anti-Money Laundering and Combating the Financing of Terrorism and Counter-Proliferation Deficiencies

On October 26, 2021, FinCEN informed U.S. financial institutions that the Financial Action Task Force (FATF) has issued public statements updating its lists of jurisdictions with strategic AML/CFT/CPF deficiencies following its plenary meeting this month. U.S. financial institutions should consider the FATF's stance toward these jurisdictions when reviewing their obligations and risk-based policies, procedures, and practices.

On October 21, 2021, the FATF added Jordan, Mali, and Turkey to its list of the Jurisdictions under Increased Monitoring and removed Botswana and Mauritius.

The FATF's list of High-Risk Jurisdictions Subject to a Call for Action remains the same with Iran and the Democratic People's Republic of Korea still subject to the FATF's countermeasures.

As part of the FATF's listing and monitoring process to ensure compliance with its international standards, the FATF issued two statements:

(1) Jurisdictions under Increased Monitoring, which publicly identifies jurisdictions with strategic deficiencies in their AML/CFT/CPF regimes that have committed to, or are actively working with, the FATF to address those deficiencies in accordance with an agreed upon timeline and;

(2) High-Risk Jurisdictions Subject to a Call for Action, which publicly identifies jurisdictions with significant strategic deficiencies in their AML/CFT/CPF regimes and calls on all FATF members to apply enhanced due diligence, and, in the most serious cases, apply counter-measures to protect the international financial system from the money laundering, terrorist financing, and proliferation financing risks emanating from the identified countries.

Source: https://www.fincen.gov/news/news-releases/financial-action-task-force-identifies-jurisdictions-anti-money-laundering-and-0 accume partners

Treasury Continues Campaign to Combat Ransomware As Part of Whole-of-Government Effort
On October 15, 2021, the U.S. Department of the Treasury announced additional steps today to help the virtual currency industry prevent exploitation by sanctioned persons and other illicit actors. These actions are part of the Biden Administration's focused, integrated effort to counter the ransomware threat. New industry-specific guidance outlines sanctions compliance best practices tailored to the unique risks posed in this dynamic space, while new data from the Financial Crimes Enforcement Network (FinCEN) shows the increasing threat ransomware posed to the U.S financial sector, businesses, and the public during the first half of 2021. Treasury's actions underscore the need for a collaborative approach to counter ransomware attacks, including public-private partnerships and close relationships with international partners.

In concert with this, FinCEN issues a Ransomware trends and analysis report available at Ransomware Trends in Bank Secrecy Act Data Between January 2021 and June 2021.

Source: https://home.treasury.gov/news/press-releases/jy0410

OFAC Guidance on Virtual Currency
In October 2021, OFAC issued guidance for the virtual currency industry. This guidance will assist those in the virtual currency industry in:

- Evaluating sanctions-related risks in their lines of business
- Building a risk-based sanctions compliance program
- Protecting their business from sanctions violations and intentional misuse of virtual currencies by malicious actors
- Understanding OFAC's recordkeeping, reporting, licensing, and enforcement processes

Source: https://home.treasury.gov/system/files/126/virtual_currency_guidance_brochure.pdf

FATF Issues Follow Up Report on China's Progress Concerning AML Deficiencies
The FATF Plenary adopted the mutual evaluation report (MER) of China in February 2019 and its 1st enhanced follow-up report (FUR) with technical compliance re-ratings in October 2020. This 2nd enhanced FUR analyses China's progress in addressing the technical compliance deficiencies identified in its MER relating to Recommendations 3, 8, 16, 18, 29, 35 and 38. No Recommendations have changed since the adoption of its 1st enhanced FUR..

Source: http://www.fatf-gafi.org/media/fatf/documents/reports/fur/Follow-Up-Report-China-2021.pdf

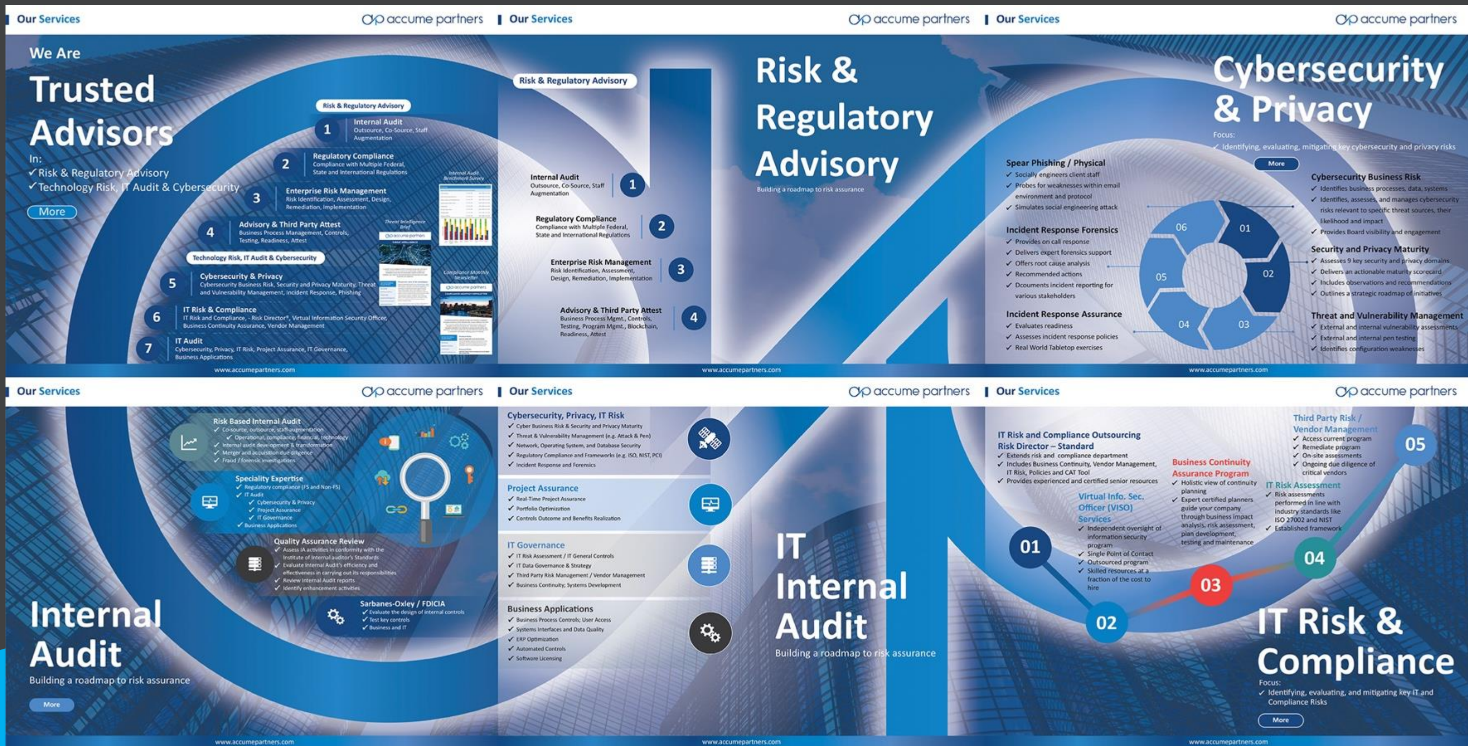
Recommended Actions to Take

- Review the OCC priorities for 2022 and evaluate your present risk management programs;
- Review the amendments to the Real Estate Lending Standards and make changes to current practices as applicable;
- Review your fair lending program for enhancement in light of the Justice Department's New Initiative to Combat Redlining
- Review changes to the examination procedures and analyze the impact on your financial institution;
- Review the CRA FAQ and understand the impact on your CRA performance;
- Review the OCC's Fiscal Year 2022 Bank Supervision Operating Plan to gain an understanding of 2022 regulatory focus;
- Prepare for the LIBOR transition by reviewing the regulatory updates and the OCC's self assessment tool;
- Review the AML news in relation to ransomware, virtual currency and other topics and analyze the impact to your BSA AML Program;

If you have questions about any of the above recommendations, or about their implementation, feel free to reach out to Accume for additional information.

Recommended Actions to Take

Trusted Advisor | Specialized Resources: Big 4, Industry | Cost-Effective | Agile



Janet Golonka
Senior Director
724-914-5905
jgolonka@accumepartners.com

Contact Us

Accume Partners

12 East 49th Street – 5th Floor,

New York, NY 10017

P: 888-696-1515

E: info@accumepartners.com

accume partners