Sheshunoff
CONSULTING + SOLUTIONS

Happy Thanksgiving from Sheshunoff Consulting + Solutions

| Online Compliance Consulting News | November 2019 |

It's That Time of Year

As the weather turns colder and our year approaches its end, we start to notice that several **regulatory adjustments** are issued. These issuances amend a variety of regulatory thresholds and provisions. The changes are important as they establish thresholds for meeting certain requirements.

Regulation Z has various adjustments which will take effect on **January 1, 2020.** For example, the regulation's **general exemption** threshold is increasing from **$57,200** to **$58,300** in **2020**. Also, the regulation contains **appraisal requirements for HPML transactions**, with exceptions. One such exemption is based on the amount of the extension of credit. That exemption threshold will increase from **$26,700** to **$27,200** in **2020**. Other regulatory adjustments have also been announced.

Our clients should review our **Compliance Alerts** and **Compliance Calendar** for information and details on impact and what next steps should be taken. Compliance Alerts are uploaded to the Knowledge Base contained in the Online Compliance Consulting portal.

SAFE Act – Interpretive Rule & FAQs

Last year, Sheshunoff's Online Compliance Consulting area provided an overview of **S. 2155 / the Economic Growth, Regulatory Relief, and Consumer Protection Act** (EGRRCPA). That overview included a title 1, section 6 item that is slated to become effective this month on **Loan Originators – Eliminating Barriers.**

Related to this, on November 15th, the CFPB issued an **interpretive rule** to clarify **screening and training requirements for Mortgage Loan Originators.** As noted in the Bureau's issuance, the SAFE Act contemplates two categories of loan originators (LOs): a) LOs working for state-licensed mortgage companies and b) LOs working for federally-regulated financial institutions. EGRRCPA establishes a third category of **LOs with temporary authority**.

Loan originators with temporary authority are loan originators who were previously registered or licensed, are employed by a state-licensed mortgage company, are applying for a new state loan originator license, and meet other criteria specified in the statute. Loan originators with temporary authority may act as a loan originator for a temporary period of time, as specified in the statute, in a state while that state considers their application for a loan originator license.

Online Compliance Consulting Update!

The Online Compliance Consulting Dashboard has been enhanced!

- New Alert – Reg. Z thresholds for 2020
- Updated Compliance Calendar – various 2020 events
- Updated Compliance Webinars Library – 3Q Be Prepared! Recording
- Updated Knowledge Base – SAFE Act FAQs
- October 2019 News

To access this information and all other compliance features, go to:

http://compliance.smslp.com/

The interpretive rule, effective **November 24th**, also clarifies that the employer is not required to conduct the qualifying screening and ensure the training of loan originators with temporary authority, as that will be performed by the state as part of their review of the individual's application for a state loan originator license.

Interested persons may find the Bureau's interpretive rule **here.** Also, the Bureau's SAFE Act FAQs may be found **here.**

Speaking of Adjustments...BSA Penalties Are Increased

Besides adjustments to typical regulatory provisions that we're familiar with every year, there are also occasions when **penalties** are adjusted due to inflation. In regard to that, FinCEN has recently issued a final rule implementing **inflationary adjustments to their civil money penalties** (CMPs). The rule adjusts certain CMPs within FinCEN's jurisdiction to the maximum amount required by the Federal Civil Penalties Inflation Adjustment Act, as follows:

Civil monetary penalty description	Penalties as last amended by statute	Maximum penalty amounts or range of minimum and maximum penalty amounts for penalties assessed on or after October 10, 2019
Relating to Recordkeeping Violations For Funds Transfers	$10,000	$21,039
Willful or Grossly Negligent Recordkeeping Violations	10,000	21,039
Failure to Terminate Correspondent Relationship with Foreign Bank	10,000	14,231
General Civil Penalty	25,000	57,317
Provision for Willful Violations of Bank Secrecy Act Requirements	−100,000	−229,269
Foreign Financial Agency Transaction—Non-Willful Violation of Transaction.	10,000	13,247
Foreign Financial Agency Transaction—Willful Violation of Transaction	100,000	132,469
Negligent Violation by Financial Institution or Non-Financial Trade or Business.	500	1,146
Pattern of Negligent Activity by Financial Institution or Non-Financial Trade or Business.	50,000	89,170
Violation of Certain Due Diligence Requirements, Prohibition on Correspondent Accounts for Shell Banks, and Special Measures.	1,000,000	1,423,088
Civil Penalty for Failure to Register as Money Transmitting Business	5,000	8,457

As this illustrates, **non-compliance can be very costly** and this serves as a good reminder that a robust BSA program is key in avoiding penalties. The new penalty amounts will apply to penalties assessed on or after October 10, 2019, which is the date the rule was published in the Federal Register.

Interested persons may find FinCEN's rule here.

HMDA Observations

Just last month, the Federal Reserve hosted the **2019 Fair Lending Interagency Webinar**. The agenda included a wide range of fair lending-related issues, from discussion on complaints; analysis in CRA protests; redlining; and innovation. However, what drew our attention were the **HMDA review observations** that were presented by the NCUA.

Such observations can be particularly valuable, as HMDA has gone through significant changes over the last couple of years. Also, as the NCUA notes, **HMDA LAR violations often impact fair lending risk evaluation and management**.

The NCUA's observations included the following issues:

Calendar Reminders

- **11/21** – Sunset of NFIP (in the absence of further legislation)
- **12/19** – 4Q Be Prepared! Quarterly Compliance Update
- **12/31** – Sunset of SCRA Extended Foreclosure Protection (in the absence of further legislation)

Mark your calendar for our next **Be Prepared!** Compliance Update webinar. It is scheduled for **December 19, 2019**.

When available, details may be found on BankersWeb, **here.**

- When more than one party is involved, there is a failure to report originations as required. The party making the credit decision reports the origination.
- Erroneous reporting of prequalification requests as preapproval requests. Prequalification requests are not applications under HMDA.
- Reporting applications as "withdrawn" that were not expressly withdrawn by the applicant before the institution made a credit decision.
- Incorrect race, ethnicity, and sex information. HMDA LAR does not match information provided, includes only one entry when more than one provided, or does not include race / ethnicity detail.
- Reporting the institution's NMLSR ID instead of the loan originator's ID.

Besides the observations noted above, the NCUA also provided related input on each observation that touches on fair lending impact and CMS deficiencies. Interested persons may find information on the webinar **here.**

Convenient and Affordable Compliance Assistance

Do you need help preparing for the upcoming regulatory requirements? SC+S can help with our Online Compliance Consulting services, which combines the ease of online tools with the guidance of a compliance expert.

You will have access to an online compliance expert who will:

- Answer all of your compliance questions;
- Review your new policies and disclosures for compliance; and
- Train your Board of Directors on upcoming regulatory requirements.

You will also receive access to our online tools, including:

- Our Compliance Calendar;
- Our Dashboard Feature and Progress List, that enables you to determine what steps you will need to take to comply with the requirements and track your progress as you implement them;
- Our exclusive Knowledge Base of compliance Q&As; and
- FREE access to our quarterly Be Prepared! webinar series.

For more information or a free demo, contact Rhonda Coggins at 512-703-1509.

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