



## CRA and Activities in Response to the Coronavirus

Our readers may recall that earlier this year, our June newsletter highlighted **interagency FAQs** that addressed **CRA consideration** for activities in response to the coronavirus and the SBA's **Paycheck Protection Program (PPP)**.

Related to this, we want to ensure readers are aware of additional FAQs that have been located on the **FDIC's website**, entitled "**Frequently Asked Questions (FAQs) on the Small Business Administration's Paycheck Protection Program – August 31, 2020.**" More specifically, we would like to draw your attention to three FAQs related to CRA and PPP, as follows:

- **FAQ #17** addresses how PPP loans will be considered when evaluating the borrower and geographic distribution of loans, including the distribution of loans inside and outside of the bank assessment area(s).
- **FAQ #16** addresses CRA PPP reporting and revenue, including information on existing customers.
- **FAQ #7** addresses CRA consideration for PPP loans, as follows:

### **7. [Updated 07/16/2020] Will loans originated under the PPP receive CRA Credit?**

*In most cases, yes. Generally, loans, including PPP loans in amounts of \$1 million or less to for-profit businesses, or to nonprofit organizations that are secured by nonfarm, nonresidential real estate, are reported and considered as small business loans under the applicable retail lending test. PPP loans will be considered **particularly responsive if made to small businesses with gross revenues of \$1 million or less or to businesses located in low- or moderate-income geographies or distressed or underserved nonmetropolitan middle-income geographies.** Additionally, participation in the PPP could receive consideration as innovative or flexible lending practices.*

*PPP loans to businesses in amounts greater than \$1 million may be considered as **community development loans if they also have a primary purpose of community development as defined under the current CRA regulations.** Generally, loans to small businesses with **gross annual revenues of \$1 million or less** that create or retain jobs for low- or moderate-income individuals or in low- or moderate income geographies, or that otherwise meet the economic development "size" and "purpose" tests, qualify as community development loans. Such loans may also qualify if the loans help revitalize/stabilize low- and moderate-income geographies or distressed or underserved nonmetropolitan middle-income geographies.*

A common theme from these FAQs is that the reporting and receiving of credit for PPP loans is still tied to **gross annual revenue** in some ways. However, FAQ #16 clarifies that "**Banks that have access to an applicant's gross annual revenue information may, but are not required to, report that information.**" We encourage CRA Officers to review these FAQs. Also, while the FAQs indicate flexibility in collecting and reporting revenue, **institutions should still strive to collect and report this information to give themselves a better chance of receiving credit.** Interested persons may find these PPP-related FAQs [here](#).

## Online Compliance Consulting Update!

The Online Compliance Consulting Dashboard has been enhanced!

- **NEW COVID-19-Related Resources** – A searchable listing of resources can be found at the top of the Online Compliance Dashboard in the COVID-19 section.
- Updated Compliance Calendar
- Knowledge Base Updates – General Payroll Protection Program (PPP) FAQs, PPP Loan Forgiveness FAQs, RESPA Section 8 FAQs, and HMDA FAQs
- Refreshed Thought Leadership Section
- Updated Compliance Progress Section
- Updated Regulatory Deadlines Workbook
- Updated Implementation Checklists
- September 2020 News

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

<http://compliance.smslp.com/>

## BSA/AML Issues in the News

During the month of October, FinCEN provided various issuances on a variety of **Bank Secrecy Act / Anti-Money Laundering-related topics**, including the following:

- On October 13, 2020, FinCEN issued an “**Advisory on Unemployment Insurance (UI) Fraud During the Coronavirus Disease 2019 (COVID-19) Pandemic.**” This very important issuance is focused on observations related to exploitations of our current pandemic environment and those engaged in fraudulent schemes. It highlights 5 different **representative activities**, for example, employer-employee collusion fraud. The issuance also provides several **red flag indicators** which may alert institutions of such activity, for example, a customer’s UI payments are quickly diverted via wire transfer to foreign accounts. The advisory also includes **SAR filing instructions** that, among other things, requests institutions to include a key term in the SAR field for related activity. Interested persons may find FinCEN’s Advisory FIN-2020-A007 [here](#).
- On October 15, 2020, FinCEN issued a “**Supplemental Advisory on Identifying and Reporting Human Trafficking and Related Activity.**” While staff may recall human trafficking-related guidance issued in 2014, this 2020 is not intended to replace that guidance, but supplements it. As noted, besides the horrendous impact on victims, human trafficking is now described as generating an estimated **\$150 billion worldwide per year**. This supplemental guidance highlights new **typologies** of human trafficking, **red flag indicators**, **case studies** and other important information. Interested persons may find FinCEN’s supplemental guidance FIN-2020-A008 [here](#).
- On October 19, 2020, FinCEN released a statement of the first **Bitcoin “Mixer”** penalized for violating anti-money laundering laws. The **\$60 million CMP** was assessed against Larry Dean Harmon, the founder, administrator, and primary operator of Helix and Coin Ninja, **convertible virtual currency “mixers,” or “tumblers,”** for violations of the Bank Secrecy Act and its implementing regulations. Interested persons may find FinCEN’s news release [here](#).
- On October 23, 2020, FinCEN and the Federal Reserve Board issued a **Proposed Rule (PR)** to seek comment related to **potential Bank Secrecy Act (BSA) amendments to recordkeeping and “travel rule”** regulations. Under the current recordkeeping and travel rule regulations, institutions must collect, retain, and transmit certain information related to funds transfers and transmittals of funds over \$3,000. The PR lowers the applicable threshold from \$3,000 to \$250 for international transactions. The PR also clarifies that those regulations apply to transactions above the threshold involving **convertible virtual currencies** and **digital assets** with legal tender status. Interested persons may find the PR, which has a 30 day comment period, as published in the Federal Register, [here](#).

## NFIP Reauthorization

As we’ve reported on numerous occasions over the years, the **National Flood Insurance Program (NFIP)** is scheduled to periodically “sunset” and requires reauthorization. This is most often managed by patchwork legislation that provides for temporary reauthorization of limited time periods.

Related to this, Congress most recently renewed the NFIP by way of legislation that was signed by the President on September 30, 2020. This legislation reauthorized the NFIP through **September 30, 2021**. Congress must now

## Calendar Reminders

- **10/30** - HMDA Quarterly LAR Update
- **11/19** – Payday Lending Rule Compliance Date for Delayed Provisions
- **11/26** –



- **11/30** - Quarterly HMDA LAR Submission Deadline for Certain Reporters (*Note: While an institution may quarterly report, the CFPB’s 3/26/2020 [issuance](#) stated that, until further notice, it does not intend to take action against an institution’s failure to quarterly report HMDA data.*)

reauthorize the NFIP by no later than end of day September 30, 2021, or a lapse will occur. Related to this, we're aware that the House Financial Services Committee is in the process of working on a 5 year extension for the NFIP.

Interested persons can find FEMA's reauthorization announcement [here](#).

## ICYMI – CFPB Issuance

**In case you missed it**, the CFPB issued a **final rule** this month to extend the “**GSE Patch**.”

The final rule extends the **Government-Sponsored Enterprise (GSE) Patch** until the mandatory compliance date of a final rule amending the **General Qualified Mortgage (QM)** loan definition in Regulation Z. The GSE Patch **was scheduled to expire on January 10, 2021**. *Of note, the Bureau is not amending the provision in Regulation Z stating that the GSE Patch will expire if the GSEs (Fannie Mae and Freddie Mac) exit conservatorship.*

This new rule is effective **December 28, 2020**. Interested persons may find publication of the final rule in the Federal Register [here](#).

## In HMDA News

Earlier this month, the CFPB issued another **HMDA-related resource**.

This resource provides high level information on HMDA data reporting for **2021**. This “**Reportable HMDA Data: A Regulatory and Reporting Overview Reference Chart for HMDA Data Collected in 2021**” provides clarification and hyperlinks to provide support for reporting data points. It is effective **January 1, 2021**.

Interested persons may find this resource on the CFPB's HMDA page [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.**



**Our next Be Prepared!**  
Compliance Update webinar is scheduled for **December 17, 2020**. Details are forthcoming.

## Contact Us

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