



Happy Thanksgiving

Thanksgiving is the perfect time to express our sincere thanks to those whose friendship we cherish. Thank you for your business and best wishes for a bountiful Thanksgiving holiday.

It's That Time of Year

As the weather turns colder and our year approaches its end, we start to notice that various **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, 2021**. For example, for **qualified mortgages**, which provide creditors with certain protections from liability under the Ability-to-Repay Rule, the maximum thresholds for total points and fees in **2021** will be **3 percent** of the total loan amount for a loan **greater than or equal to \$110,260; \$3,308** for a loan amount **greater than or equal to \$66,156 but less than \$110,260; 5 percent** of the total loan amount for a loan **greater than or equal to \$22,052 but less than \$66,156; \$1,103** for a loan amount **greater than or equal to \$13,783 but less than \$22,052; and 8 percent** of the total loan amount for a loan amount **less than \$13,783**.

In the near future, our clients will have access to our **Compliance Alerts** and **Compliance Calendar** for information and details on these threshold adjustments, their impact, and what next steps should be taken.

NEW Rule – Fair Debt Collection Practices Act

Late last month, the CFPB issued a new final rule to significantly revise their **Regulation F**, which implements the **Fair Debt Collection Practices Act (FDCPA)**.

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.
- NEW Compliance Alert – Reg. Z / ATR QM Rule on Temporary GSE QMs
- Updated Compliance Calendar
- Updated Regulatory Deadlines Workbook
- Updated Implementation Checklists
- Knowledge Base Update – Reg. Z / ATR QM Rule on Temporary GSE QMs
- Updated Compliance Progress Section
- October 2020 News

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

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

Prior to this new rule, Regulation F only addressed procedures for state application for exemptions from provisions of the FDCPA. This new rule, effective one year after publication in the Federal Register, addresses the **activities of debt collectors**.

The new rule generally restates the **FDCPA's prohibitions on certain communications with consumers**. Prohibitions include communicating at unusual times or places, at inconvenient times, at a consumer's place of employment, and when a debt collector knows a consumer is represented by an attorney. Further, the rule addresses electronic communications and clarifies what conduct is considered harassing, oppressive or abusive. The rule also addresses other miscellaneous collections practices.

At the time of this article, we are awaiting publication of the rule in the Federal Register. However, interested persons may find information on the Bureau's **final rule** and other FDCPA-related **compliance aids** at the Bureau's website [here](#).

In connection with the topic of debt collection, interested persons may want to read about the CFPB's recent **settlement** with Afni, Inc. The settlement with this debt collector relates to violations in providing information to consumer reporting agencies. The consent order may be found [here](#).

BSA/AML Issues in the News

FinCEN recently issued an "**Advisory on the Financial Action Task Force (FATF)-Identified Jurisdictions with Anti-Money Laundering, Combating the Financing of Terrorism, and Proliferation Deficiencies**" (FIN-2020-A009).

This advisory highlights **FATF's October 23rd update of jurisdictions** with strategic deficiencies in their regimes, which may affect U.S. financial institutions' obligations and risk-based approaches with respect to relevant jurisdictions.

Notably, the **FATF removed Iceland and Mongolia** from the list after the FATF conducted on-site visits to those countries and verified that each country is implementing its reforms. Per its October 23, 2020 statement, the FATF's February 2020 "**High-Risk Jurisdictions Subject to a Call for Action**" statement remains in effect.

The advisory also addressed **SAR filing instructions** as follows: "*When filing a SAR, financial institutions should provide all pertinent available information in the SAR form and narrative. FinCEN requests that financial institutions reference this advisory by including the key term "**October 2020 FATF FIN-2020-A009**" in SAR field 2 (Filing Institution Note to FinCEN) and the narrative to indicate a connection between the suspicious activity being reported and the activities highlighted in this advisory.*"

Interested persons can find referenced advisory [here](#).

SBA Loans and Reg. O

As you know, our newsletter and other services have passed along a variety of information about the **Small Business Administration (SBA) and Paycheck Protection Program (PPP)** loans. As a result, we have received compliance-related questions tied to SBA loans.

Most recently, we were asked about whether a SBA loan originated this year should be declared on the insider-related annual survey.

Based on our review of Reg. O (12 CFR 215), such a loan could be excluded from being reported on the survey, provided that it met certain criteria.

Calendar Reminders

- **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.*)
- **12/28** – Reg. Z / ATR/QM Amendment for Temporary GSE QMs Effective Date

To support this, we know that the records of member banks include an annual survey that is used to capture, among other things, records of all “**extensions of credit to insiders.**” Lastly, while “extension of credit” is defined, the regulation clarifies that an “**extension of credit**” **does not include**, the following:

“(8) Except for purposes of §215.5 of this part, a loan:

- (i) In which the participation by the Small Business Administration on a deferred basis is 100 percent pursuant to section 1102(a)(1) of Public Law 116-136 (to be codified at 15 U.S.C. 636(a)(2)(F));*
- (ii) That is made during the period beginning on February 15, 2020, and ending on August 8, 2020; and*
- (iii) That would not be prohibited by 13 CFR 120.110(o) or rules or interpretations thereof issued by the Small Business Administration.”*

Considering this criteria, if the loan is excluded from being an “extension of credit,” it would not be included on the annual report of extensions of credit. Interested persons can find the referenced regulation [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.

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