COMPLIANCE INSIGHTS

A VALUE-ADDED NEWSLETTER FOR CLIENTS AND FRIENDS OF OSC & SUI

WINTER 2020

IN THIS ISSUE

COMPLIANCE INSIGHTS

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A NOTE FROM THE EDITOR

GREETINGS!

Welcome to our first edition of the new year and welcome to our new readers of OSC's sister company, Southeastern Underwriters, Inc. (SUI). For those who don't know SUI, they provide nearly 600 small- to mid-sized community banks, auto finance and equipment lenders and their agents, with insurance ordering and tracking solutions. They have a demonstrated track record of service excellence and tenured staff. Founded in 1978, their offices are located in the Richmond, Virginia area.

To recap 2019, we saw many efforts by banking regulators to spur economic growth that aligns with the Trump Administration's economic agenda. These initiatives in many ways bucked the previous trend of post-crisis regulatory creep, as an answer to the effects of a downward housing market, along with the alleged consumer abuse and unfiltered housing capital market behavior. New regulatory agency leadership saw a need to spearhead a look back on recently passed regulations and their impact on the ease of credit.

In the U.S. alone, regulators exhibited multiple efforts to tailor post-crisis regulations by evaluating, streamlining, and modifying them, based on financial institutions' size and complexity of operations. Notably, the majority of regulatory agencies are pushing for a focused, tailored approach to new rulemaking, issuing "supervisory guidance" and amending past regulatory requirements. At the same time, they are looking ahead to new perceived risks, including LIBOR transition, business resiliency, plus the effects of technological change and innovation. In this edition, you'll read about the Supervisory Strategies issued by the OCC, the results of a survey on lending practices across the industry, CFPB's Supervisory Insights, and key takeaways regarding auto sales and finance.

We're looking forward to seeing a more tailored approach to regulations in 2020 and how the regulators tackle the various nonfinancial risks across cybersecurity, compliance, operational risk, data governance, and data quality landscapes.

By now you have likely heard our 20th Compliance Educational Forum has been postponed until a later date due to concerns about the spread of coronavirus. We look forward to hosting this content-rich training session in the future. In the meantime, please register for our upcoming Private Flood Insurance Policy Assessment Training Webinar to be held on Wednesday, May 6th. See page 12 of this newsletter for details and the link to sign up. It is 1.5 CRCM CE credit eligible as an added bonus.

Kirk A. Stephens

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MEET THE EDITOR

For over eight years, Chief Compliance Officer of Breckenridge Insurance Group Kirk Stephens has spearheaded our industry-leading compliance practices. In this role, he manages the implementation of sound compliance practices and oversees corporate governance best practices. In addition, Kirk provides financial risk management advisory and compliance services to banks and other mortgage lender clients of OSC. Kirk is a 20-year veteran of the Federal Deposit Insurance Corp. (FDIC), where he most recently provided strategic direction and advice on supervisory examinations and oversaw and managed the operations for the Senior Deputy Director of Supervisory Examinations in Washington, D.C. Previously, he was a regional FDIC case manager, directing the risk management examinations of financial institutions with $20M to $140B in assets. He began his career at the FDIC as a federal bank examiner. Kirk regularly contributes to national publications as well as speaks at national conferences on compliance-related issues as well as publishes this well-regarded lender compliance newsletter.

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BANKING REGULATORS PROVIDE GUIDANCE FOR PROPER PANDEMIC PLANNING

Banking regulators have indicated that pandemic planning presents unique challenges to financial institution management when developing their continuity plans. The impact of a pandemic is much more difficult to determine because of the anticipated difference in scale and duration. The nature of the global economy ensures that the effects of a pandemic event will be widespread and threaten not just a limited geographical region or area, but potentially every continent. In addition, while traditional disasters and disruptions normally have limited time durations, pandemic generally occur in multiple waves, each lasting two to three months. These differences and challenges highlight the need for all financial institutions, no matter of their size, to plan for a pandemic event when developing their Business Continuity Plan. The Federal Financial Interagency Examination Council has provided guidance as to what a pandemic plan should include:

- A preventative program to reduce the likelihood that an institutions' operations will be significantly affected by a pandemic event: monitoring of potential outbreaks, educating employees, communicating and coordinating with critical service providers and suppliers, in addition to providing appropriate hygiene training and tools to employees.
- A documented strategy that provides for scaling the institution's pandemic efforts so they are consistent with the effects of a particular stage of a pandemic outbreak, such as first cases of humans contracting the disease overseas, first cases within the United States, and first cases within the organization itself.
- Comprehensive framework of facilities, systems, or procedures that provide the organization the capability to continue its critical operations in the event that large numbers of the institution's staff are unavailable for prolonged periods. Such procedure could include social distancing to minimize staff contact, telecommuting, redirecting customers to electronic banking services, or conducting operations from alternative sites. The framework should consider the impact of customer reactions and the potential demand for, and increased reliance on, online banking, telephone banking, ATMs, and call support services. In addition, consideration should be given to possible actions by public health and other government authorities that may affect critical business functions of a financial institution.
- A testing program to ensure that the institution's pandemic planning practices and capacities are effective and will allow critical operations to continue.
- An oversight program to ensure ongoing review and updates to the pandemic plan so that policies, standards, and procedures include up-to-date, relevant information provided by government sources or by the institution's monitoring program.

READ FFIEC
https://ithandbook.ffiec.gov/business-continuity-planning/appendix-d-pandemic-planning.aspx

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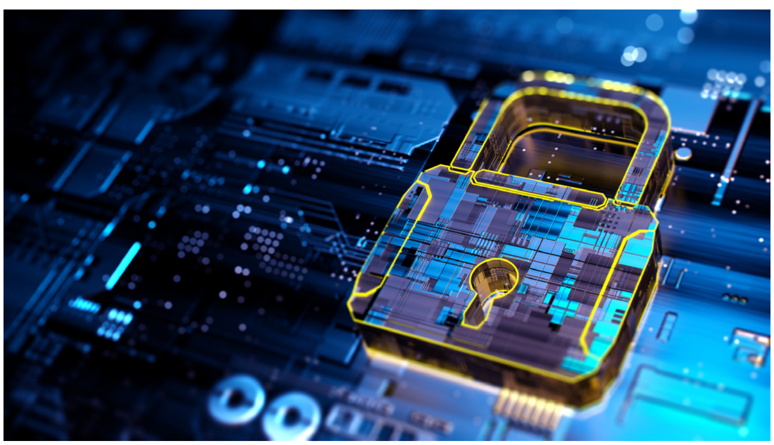
OCC RELEASES BANK SUPERVISORY STRATEGIES FOR 2020

The Office of the Comptroller of the Currency ("OCC") released its bank supervision operating plan for 2020. The plan provides the foundation for policy initiatives and for supervisory strategies as applied to the 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 2020 focus on:

- Cybersecurity and operational resiliency – Plan emphasizes threat vulnerability and detection, access controls and data management, and managing third-party connections. Examiners will focus on information technology risk management evaluation and the institution's information technology systems maintenance.



- Bank Secrecy Act/Anti-money Laundering ("BSA/AML") Compliance Management – the Plan emphasizes customer due diligence and beneficial ownership; determining whether BSA/AML risk management systems match the complexity of business model and products offered; evaluating technology solutions to perform or enhance BSA/AML oversight functions, and assessing the adequacy of suspicious activating monitoring and reporting systems and processes.
- Commercial and Retail Credit Underwriting Practices and Oversight and Control Functions – Plan underscores the evaluation of credit risk appetites, risk layering, and portfolio risk exposure including portfolio administration and risk management, independent loan review, concentration risk management, policy exception tracking, collateral evaluation, stress testing, and collections management.
- Impact of Changing Interest Rate Outlooks and Bank Activities and Risk Exposures – Plan focuses on review of the impact of changing interest rate outlooks on bank activities and risk exposures, including deposit costs, funding migration, asset valuations, borrower debt service capacity, and housing affordability.
- Preparedness for Current Expected Credit Losses Account Standard, and Preparation for the Potential Phase-out of the London Interbank Offering Rate (LIBOR) – Plan emphasizes the implementation plans and use of third-party vendors to assist in methodology, modeling, and management information systems development. Impact assessment of an alternative index for pricing loans, deposits, other products, and services, as well as operational and compliance risks.
- Technological Innovation and Implementation – Evaluation and use of cloud computing, artificial intelligence, digitalization in risk management processes, new products and services, and strategic plans.

OCC strategies will focus on control functions and, as appropriate, leverage the institutions' audit, loan review, and risk management processes.

READ THE PLAN
https://www.occ.gov/news-issuances/news-releases/2019/2019-111a.pdf

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CFPB ISSUES POLICY STATEMENT ON ABUSIVENESS STANDARD

cfpb Consumer Financial Protection Bureau

The CFPB has issued a policy statement to clarify the Dodd-Frank Act's abusiveness standard under the Unfair Deceptive and Abusive Practices. The policy statement, which was applicable as of January 24, 2020, describes "certain aspects of how [the Bureau] intends to approach its use of the abusiveness standard in its supervision and enforcement matters going forward."

In the Supplementary Information accompanying the policy statement, the Bureau states it concluded that uncertainty as to the scope and meaning of the abusiveness standard is creating significant compliance challenges for businesses. Such challenges, the Bureau observes, "can impose substantial costs, including impeding innovation" and, as a result, "consumers may lose the benefits of improved products and services and lower prices."

The Dodd-Frank Act provides that, to be declared abusive, an act or practice must:

1. Materially interfere with a consumer's ability to understand a term or condition of a consumer financial product or service, or;
2. Take unreasonable advantage of (i) a lack of understanding on the part of the consumer of the material risks, costs, or conditions of the product or service, (ii) a consumer's inability to protect his or her interests in selecting or using a consumer product or service, or (iii) the reasonable reliance by the consumer on a covered person to act in the interests of the consumer.

The policy statement contains the following three components:

Cost/benefit analysis. The Bureau will focus on citing conduct as abusive if it concludes that the harms to the consumer from the conduct outweigh its benefits (including its effects on access to credit).

Citing or pleading abusiveness violations. The Bureau will focus on "stand-alone" abusiveness violations where doing so would be consistent with the abusiveness standard rather than relying on the same facts as an unfairness or deception violation.

Monetary relief. The Bureau generally will not "seek monetary remedies for abusive acts or practices if the covered person made a good-faith effort to comply with the law based on reasonable—albeit mistaken—interpretation of the abusiveness standard."

READ THE STATEMENT OF POLICY
https://files.consumerfinance.gov/f/documents/cfpb_abusiveness-enforcement-policy_statement.pdf

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CFPB'S RULEMAKING AGENDA PROVIDES GLIMPSE INTO 2020

The CFPB's 2020 Rulemaking Agenda provides a preview of the Bureau's intended rulemaking activities for 2020. Here are the highlights of what we can look forward to in 2020:

Business Lending Data (Pre-rule Stage): Under Dodd-Frank and the Equal Credit Opportunity Act, the CFPB has rulemaking authority to require lenders to collect and submit data concerning credit applications made by women-owned, minority-owned and small businesses. The Bureau intends to hold a symposium on small business data collection in 2020.

Higher-Priced Mortgage Loan Escrow Exemption (Pre-rule Stage): The Bureau is conducting preliminary analysis for rulemaking which would exempt certain lenders and higher-priced mortgage loans from the Federal Reserve Board's rule requiring the establishment of escrow accounts for payment of property taxes and insurance payments.

Debt Collection Rule (Proposed Rule Stage): The Agenda does not provide hints as to when a final rule will be published but does acknowledge that the Bureau is conducting consumer testing of disclosures related to time-barred debt. Proposed Section 1006.26(c) was reserved for that purpose. The Agenda indicates that, after testing, the Bureau will assess whether to publish a supplemental Notice of Proposed Rulemaking related to time-barred debt disclosures.

Home Mortgage Disclosure Act Data (Proposed Rule Stage): The Bureau has indicated new proposed rules will be forthcoming as to the publication of HMDA data, as well as the collection and reporting of data points. The anticipated date for the Notice of Proposed Rulemaking is mid-summer.

Payday Lending (Final Rule): As many recall, the CFPB rolled back the final rule issued in 2017 after a change in leadership. The CFPB now anticipates publishing its new rule in the Spring of 2020.

2020 RULEMAKING AGENDA
https://www.reginfo.gov/public/do/eAgendaMain

QUARTERLY BANKING PROFILE 2019

FDIC-insured institutions earned $233.1 billion in 2019, down $3.6 billion (1.5%) from 2018. The decline was primarily attributable to slower growth in net interest income and higher loan loss provisions.

Quarterly net income totaled $55.2 billion during the fourth quarter 2019, down $4.1 billion (6.9%) from a year ago. The annual decline in quarterly net income was result of lower net interest income and higher noninterest expenses. About half (45.6%) of all banks reported year-over-year declines in net income, and the percentage of unprofitable banks in the fourth quarter remained stable from a year ago at 7.2%.

FDIC Chairman Jelena McWilliams noted the decline in short-term interest rates as an obstacle for bank in boosting their asset yields. "The record-long economic expansion continued into the fourth quarter," McWilliams said. "However, the three reductions

[CONTINUED ON PAGE 7]

[QUARTERLY BANKING CONTINUED FROM PAGE 6]

in short-term rates during the second half of 2019, presented challenges in lending and funding."

Community banks had a better fourth quarter than the rest of the industry, with their net income increasing 4.4% to $6.4 billion, driven by higher net operating revenue and gains on securities.

Another notable factor weighing down bank profits in 2019 were higher loan loss provisions – a sign that the nation's banks may be preparing for borrower distress. Provisions for the while year totaled $55 billion, a nearly 10% increase over 2018.

For full-year 2019, 13 new banks were added, 226 institutions were absorbed by mergers, and four banks failed with total number of FDIC-insured commercial banks and savings institutions at 5,177. The number of institutions on the FDIC's "Problem Bank List" fell from 55 at the end of the third quarter to 51 at the end of the fourth quarter, the lowest level since fourth quarter 2006.

READ REPORT
https://www.fdic.gov/bank/analytical/qbp/2019dec/qbp.pdf#page=1

REGULATION Z THRESHOLDS FOR 2020

The CFPB issued final rules amending regulation text and official interpretations for Regulation Z, which implements the Truth in Lending Act. The Bureau is required to calculate annually the dollar amounts for several provisions in Regulation Z:

- Open-end consumer credit plans under TILA, the threshold that triggers requirements to disclose minimum interest charges, will remain unchanged at $1.00 in 2020.
- Open-end consumer credit plans under the CARD Act amendments to TILA, the adjusted dollar amount in 2020 for safe harbor for a first violation penalty fee will increase by $1.00 to $29.00 and the adjusted dollar amount for the safe harbor for a subsequent violation penalty fee will increase by $1.00 to $40.00.
- HOEPA loans, the adjusted total loan amount threshold for high-cost mortgages in 2020 will be $21,980.
- The adjusted points-and-fees dollar trigger for high-cost mortgages in 2020 will be $1,099.
- Qualified mortgages, which provide a creditor with certain protections from liability under the Ability-to-Repay Rule, the maximum thresholds for total points and fees in 2020 will be 3 percent of the total loan amount for a loan greater than or equal to $109,898;
  - $3,297 for a loan amount greater than or equal to $65,939 but less than $109,898;
  - 5 percent of the total loan amount for a loan greater than or equal to $21,980 but less than $65,939;
  - $1,099 for a loan amount greater or equal to $13,737 but less than $21,980; and
  - 8 percent of the total loan amount for a loan amount less than $13,737.

NEW JERSEY AMENDS ITS COLLATERAL PROTECTION INSURANCE RULE

On January 13, 2020, the New Jersey governor signed S2998, which amends the state's collateral protection insurance ("CPI") disclosure requirements for personal property loans. The amendments provide that when CPI is required and provided by the creditor, the creditor must disclose within 14 days to the consumer debtors that they will be responsible for interest on CPI cost "at the same rate that is applied pursuant to the debtor's credit agreement." The creditor must also provide a "good faith estimate" of what the CPI coverage will cost the debtor. Additionally, the creditor must instruct the debtors how to provide evidence of the required insurance, so that in those instances where the debtor obtains CPI, the creditor-purchased CPI can be cancelled, and the costs and interest fees can be recovered.

In addition to the above notice, within 60 days of receipt of evidence of coverage, a creditor shall send the debtor a notice of receipt, a confirmation of cancellation of any CPI, and a revised scheduled payment that reflects the requirements of the rule.

CAUSE OF ACTION

Importantly, the new rule provides a civil cause of action against the creditor by the debtor in certain instances:

- If the purchase of CPI is the result of an error by the creditor; or
- If the creditor has received evidence of insurance and the creditor fails to remove CPI once placed.

Note: Cause of action for these instances shall include premium, interest, and all related fees paid by the debtor, including attorney's fees. If the creditor's actions result in duplicative charges against the debtor and those charges result in delinquency of the credit agreement or repossession of the collateral, the debtor shall be entitled to treble damages.

PENALTIES

The new rule allows for certain administrative penalties to be assessed by the Insurance Commissioner in certain instances:

- A creditor that fails to substantially comply with the provisions of the rule in purchasing CPI, including failure to provide notice as required above shall be liable to an administrative penalty not exceeding $25,000.
- A creditor that willfully violates any requirement of the rule shall be liable to an administrative penalty not exceeding $50,000.

The amendments to the rule take effect on April 12, 2020.

OSC is reviewing the requirements of the new rule, especially the new disclosure requirements as they relate to certain information that is not readily available to OSC such as "good faith estimate" of what the CPI coverage will cost the debtor as well as any revised scheduled payment required to be sent to the borrower within 60 days of receipt of evidence of coverage.

READ THE RULE

https://buckleyfirm.com/sites/default/files/Buckley%20InfoBytes%20-%20State%20of%20New%20Jersey%20S%202998%20-%20Requires%20creditors%20to%20make%20certain%20disclosures%20regarding%20collateral%20protection%20insurance%20to%20consumer%20debtors%20-%202020.1.13.pdf

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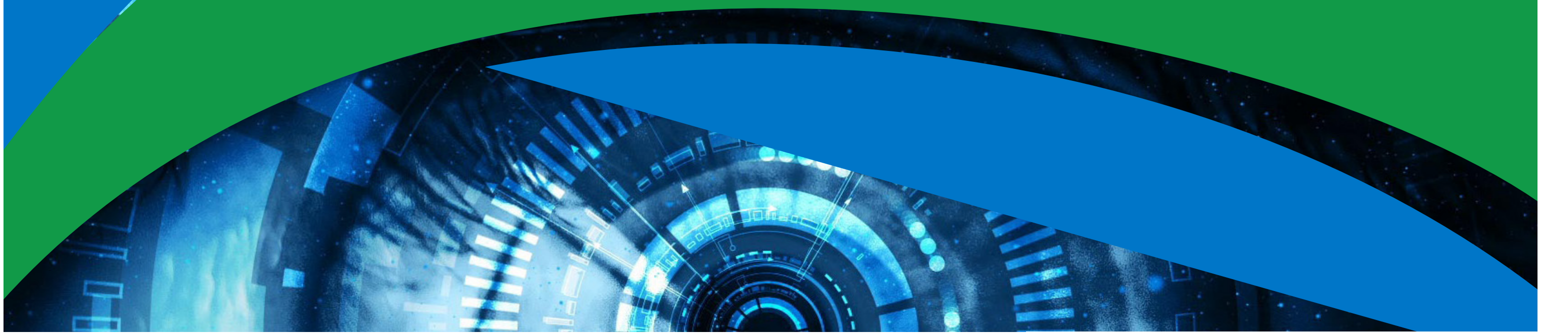

NEWS BRIEFS

Federal Reserve Reports on Lending Practices

The Federal Reserve Board's January 2020 Senior Loan Officer Opinion Survey on Bank Lending Practices addressed changes in the standards and terms on, and demand for, bank loans to businesses and households over the period generally corresponding to the fourth quarter of 2019.

Banks in the January survey indicated that, on balance over the previous quarter, they left standards on commercial and industrial loans basically unchanged, while demand weakened from commercial borrowers of all sizes. Also, banks reported that lending standards and demand were unchanged for nearly all commercial real estate loan categories except construction and land development loans, for which standards tightened and demand weakened.

For loans to households, banks reportedly left their lending standards unchanged for all types of residential real estate loans over the fourth quarter, while demand strengthened for most categories of closed-end mortgage loans and weakened for home equity lines of credit. However, banks reportedly tightened their lending standards on credit card and auto loans, while demand remained unchanged for credit cards and weakened for auto loans.

READ SURVEY
https://www.federalreserve.gov/data/sloos/sloos-202001.htm

OCC Reports Mortgage Performance Improves Slightly

The Office of the Comptroller of the Currency ("OCC") reported a slight improvement in the performance of first-lien mortgages in the federal banking system during the third quarter of 2019.

The OCC Mortgage Metrics Report, Third Quarter 2019 showed 96.4 percent of mortgages included in the report were current and performing at the end of the quarter, an improvement versus 95.4 percent a year earlier.

The report also showed that servicers initiated 21,492 new foreclosures during the third quarter of 2019, a 0.4 percent increase from the previous quarter and a 24.6 percent decrease from a year prior. Servicers completed 13,950 mortgage modifications in the third quarter of 2019, and 73.0 percent of the modifications reduced borrowers' monthly payments.

The first-lien mortgages included in the OCC's quarterly report comprise 29.8 percent of all residential mortgages outstanding in the United States, or approximately 16 million loans, totaling $3.13 trillion in principal balances. This report provides information on mortgage performance through September 30, 2019, and it can be downloaded from the OCC's website: www.occ.gov.

READ THE REPORT
https://www.occ.gov/publications-and-resources/publications/mortgage-metrics-reports/files/mortgage-metrics-report-q3-2019.html

U.S. Auto Sales Better Than Expected

U.S. automakers sold more than 17 million vehicles in the U.S. for the fifth consecutive year in 2019. New vehicles sales for 2019 were originally forecast to fall to between $16.7 million to $16.9 million, but they are in line with revised estimates after they proved to be stronger than anticipated last year. For 2020, auto analysts see U.S. sales of roughly 16.7 million to 17.1 million vehicles.

[CONTINUED ON PAGE 10]

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[AUTO SALES CONTINUED FROM PAGE 9]

"We're seeing less headwinds and more tailwinds than in the past," said Jeremy Acevedo, senior manager of industry insights Edmunds. "2019 showed a bit of resilience and shows that there's a bit more left in the tank."

CNBC (01/06/20) Michael Wayland

READ THE REPORT
https://www.cnbc.com/2020/01/06/us-auto-sales-down-in-2019-but-still-top-17-million.html

Auto Loan Rejections Increased in October

The rate of auto-loan rejections increased among U.S. consumers to 8.1 percent in October, up from 4.5 percent in October 2018, a Federal Reserve Bank of New York survey of consumer credit reveals. For the full year of 2019, the average rate of car-loan rejections was 7.1 percent, up from 6.1 percent for 2018. Applicants however reported fewer denials in other parts of the record $14 trillion consumer debt market for the same 12-month period. Among U.S. consumers, applications for any kind of credit increased to 45.8 percent on average in 2019 from 45.5 percent in 2018. Rejection rates fell to 17.6 percent in 2019 from 19.9 percent in 2018. Consumer debt grew 4.8 percent in October versus a year earlier, but analysts at Bank of America Global Research anticipate "relatively stable lending standards" for 2020.

MarketWatch (12/16/19)

READ MORE
https://www.marketwatch.com/story/more-borrowers-are-getting-rejected-for-auto-loans-2019-12-16?ns=prod/accounts-mw

4Q Mortgage Delinquencies Fall to 40-Year Low

Mortgage delinquency rates for loans on one-to-four-unit residential properties in the fourth quarter fell to the lowest level since the Mortgage Bankers Association began tracking such data.

The MBA National Delinquency Survey reported the delinquency rate for one-to-four unit residential properties in the fourth quarter fell to a seasonally adjusted rate of 3.77 percent of all loans outstanding, down by 20 basis points from the third quarter and by 29 basis points from one year ago. The percentage of loans on which foreclosure actions were started in the fourth quarter remained unchanged at 0.21 percent.

Mortgage Bankers Association (2-12-20) Mike Sorohan

READ MORE
https://newslink.mba.org/mba-newslinks/2020/february/mba-4q-mortgage-delinquencies-fall-to-40-year-low/

FDIC's Supervisory Insights Fall 2019

The FDIC issued the Fall 2019 issue of Supervisory Insights, which contains two articles of interest to lenders.

The first article, "Commercial Real Estate Loan Concentration Risk Management," examines commercial real estate (CRE) exposure in the banking industry. The article summarizes findings from recent risk management supervisory activities for the FDIC-supervised insured depository with CRE lending concentrations.

The second article, "Leverage Lending: Evolution, Growth and Heightened Risk," provides an overview of the leverage lending market, discussed the risks associated with leverage lending, and includes observations regarding current underwriting practices from examinations at state nonmember insured depository institutions and information from the Shared National Credit Program.

The issue of Supervisory Insights also includes a "Regulatory and Supervisory Roundup" section, which provides an overview of recently released guidelines and other items of interest.

SUPERVISORY INSIGHTS JOURNAL
https://www.fdic.gov/regulations/examinations/supervisory/insights/sifall19/si-fall-2019.pdf

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[NEWS BRIEF CONTINUED CONTINUED]

Federal Reserve Planning for Updates to Third-Party Guidance

In a speech at the Federal Reserve Bank of Atlanta, Federal Reserve Governor Michelle Bowman discussed how the Fed can help boost transparency and provide more clarity to community banks about relationships with vendors and third-party service providers. Elaborating on comments made at the ABA's Conference for Community Bankers earlier this month, Bowman outlined several ways the Fed can achieve this goal.

Among other things, Bowman highlighted a need for more clear and transparent guidance to ensure consistent supervision of partnerships between banks and third parties. She noted that the Fed is working with other agencies up update its existing third-party guidance.

Bowman also sad the Fed should:

- Encourage community banks to work collaboratively to conduct due diligence on potential partnerships where appropriate.
- Increase the transparency of its third-party supervisory program by releasing more information about the firms it examines and the outcomes of those evaluations.
- Ensure that examiners are property tailoring their expectations for small community banks regarding third-party monitoring.

READ THE SPEECH
https://www.federalreserve.gov/newsevents/speech/bowman20200227a.htm?utm_campaign=NEWSBYTES-20200228&utm_medium=email&utm_source=Eloqua

NMLS State Examination System is Launching Nationwide

The Conference of State Bank Supervisors recently announced at the NMLS Annual Conference & Training in San Francisco that the new State Examination System (SES) is se to launch nationwide. SES is the first nationwide system that allows state agencies to manage the examination process on a singled platform. Through SES, state regulators will be able to connect with companies during the examination process in order to promote greater transparency and collaboration.

According the State Regulatory Registry, LLC's Annual Report on NMLS operations, nearly 40 state agencies have committed to adopting SES as of the end of December 2019.

READ MORE
https://www.csbs.org/aboutSES

FLOOD COMPLIANCE Q&A CORNER

A new Section of the Compliance Insights will explore various Flood Compliance Q&As that have been entertained in the industry. We share these Q&As in hopes that it will assist our clients and/or foster a compliance conversation. These comments are not to be considered legal advice.

Q What has been the most recent change to the flood insurance compliance?

A In 2012, Congress passed the Biggert-Waters Flood Insurance Reform Act (Biggert-Waters) to amend the federal flood insurance statutes and also to stimulate the private flood insurance market. Final rules for private flood insurance were announced by the OCC, FRB, FDIC, and Farm Credit. While it took seven years for the Rules to be announced in January 2019, the actual mandatory compliance date was July 1, 2019.

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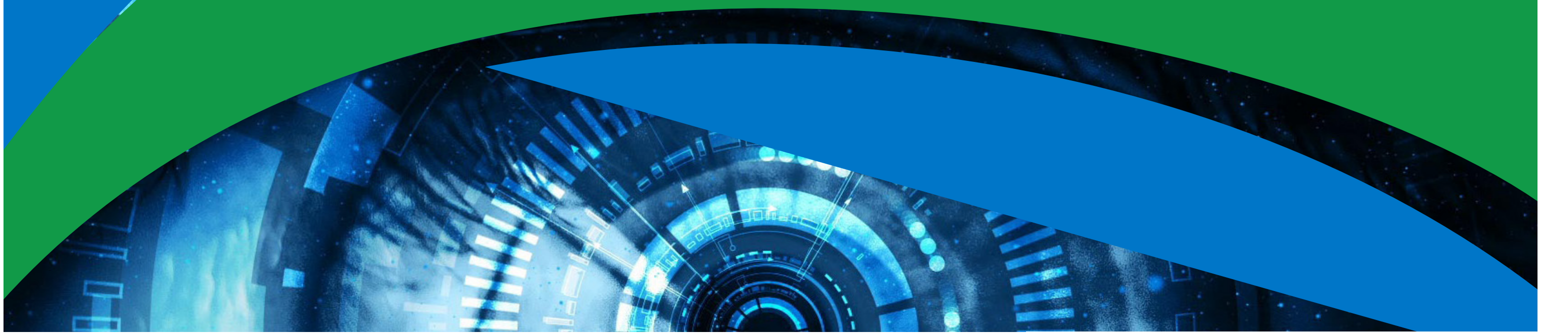

Q Can a flood civil money penalty cost six figures or more?

A Yes. Federal bank regulators issue civil money penalties on financial institutions for exhibiting a pattern or practice of violations when making, increasing, extending or renewing loans in a special flood hazard area in which flood insurance is available under the NFIP. Over the years, regulators have cited certain patterns of violations that have risen to large civil money penalties such as i) Failing to obtain flood insurance on a building securing a designated loan at the time of origination; ii) Failing to obtain adequate flood insurance; iii) Failing to follow force-placement flood insurance procedures; iv) Failing to require the escrow of all premiums and fees for required flood insurance when it required the escrow of taxes, loan secured by residential real estate; and v) Failing to provide borrower's a Notice of Special Flood Hazard and Availability of Federal Disaster Relief Assistance.

Penalty amounts have been as high at $18 million recently issued by the OCC, $1.5 million issued by the FRB, and $1 million issued by the FDIC.

Penalty amounts have been as high at $18 million recently issued by the OCC, $1.5 million issued by the FRB, and $1 million issued by the FDIC.

Q If a non-FEMA policy does not meet the definition of "private flood insurance" can it still be accepted?

A Yes. In certain circumstances, a private flood insurance policy that does not meet the statutory definition of a "private flood insurance policy" may be accepted. For example, the regulators have provided guidance for lender's to exercise "discretionary" acceptance for private flood policies if the policy meets the following requirements: 1) provides coverage in the amount required by the flood insurance purchase requirement; 2) issued by an insurer licensed, admitted, or otherwise approved to do business of insurance in the State of jurisdiction in which property to be insured is located; 3) covers both the mortgagor(s) and mortgagee(s) as loss payees, except in the case of a policy that is provided by a condo association, coop, or HOA for which premium is paid by the association, coop, or HOA as a common expense, and 4) provides sufficient protection of the loan, consistent with general safety and soundness principles and such conclusion is documented in writing.

SAVE THE DATE!

Private Flood Insurance Policy Assessment Training Webinar – Eligible for 1.5 CRCM CEs

WHO: Interested clients, prospects and partners

WHAT: Join our compliance and insurance professionals as they share a disciplined approach to analyzing private flood policies against current regulatory requirements. There will be time for Q&A.

WHEN: Wednesday, May 6, 2020 from 2:00 p.m. to 3:30 p.m.

PRESENTERS: Kirk Stephens, CRCM, Chief Compliance Officer and Craig Rubin, Director, Compliance – Breckenridge Insurance Group

WHERE: Registration now open: https://globalmeetwebinar.webcasts.com/starthere.jsp?ei=1287958&tp_key=0a53e7bbf4&sti=newsletter

WHY: With the Biggert-Waters Flood Insurance Reform Act of 2012, private flood insurance is accepted if it equates to the National Flood Insurance Policy coverage standards. However, this acceptance requires lenders to evaluate these policies for compliance with the statutory definition of "private flood insurance" and to ensure they meet minimum requirements.