OSC INSURANCE SERVICES

SUI SOUTHEASTERN UNDERWRITERS, INC.

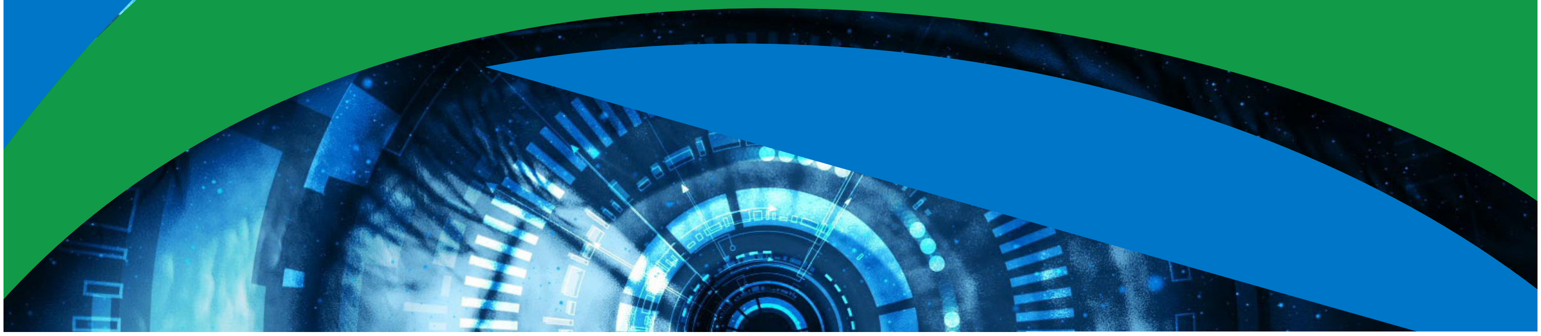
COMPLIANCE INSIGHTS

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

SPRING 2021

IN THIS ISSUE

Breckenridge Group



A NOTE FROM THE EDITOR

HAPPY SPRING!

We're hopefully off to a better year than 2020. It's difficult to describe 2020 without using the word: "Challenging." We will always remember the effects of Covid-19 and how it has left its impact on our psyche, along with the way we conduct business now and in the future. The impact of the pandemic is extraordinary and reaches across the political and social spectrum. We are still determining the longer impact on our global economy and changes that will become the new normal in how we live and work.

Over the course of the pandemic, financial institutions rose to the occasion in providing billions of dollars of relief to small businesses across our country. And, industry regulators responded by providing relief and assistance for regulated entities in meeting certain deadlines while also protecting consumers.

For 2021 and the new Biden Administration, high vigilance consumer protection should be expected, and we can expect more aggressive enforcement posturing by the CFPB with its use of public investigation and "pushing the boundaries" supervision.

In this Spring edition of *"Compliance Insights"*, we'll highlight several areas where important regulatory trends could emerge or accelerate in the wake of 2020. We also include an article outlining a potential debt crisis post pandemic due to unprecedented government spending, along with information surrounding regulatory developments that we hope you find useful.

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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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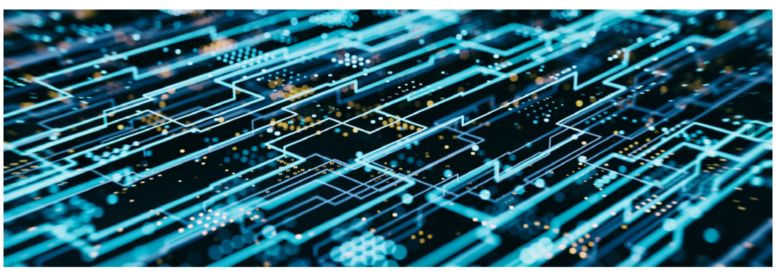
2021 REGULATORY OUTLOOK DELOITTE CENTER FOR REGULATORY STRATEGY

Each year, *"Deloitte's Center for Regulatory Strategy"* publishes white papers highlighting important regulatory changes that are emerging or accelerating. We've extracted several key trends from their public website:

Digital Transformation and Technological Innovation



The trend of forging a new relationship between companies native to the digital world and traditional financial services giants had been gaining traction before the pandemic and will likely resume in 2021. Regulators are keen to understand this emerging ecosystem and its implications. Conscious of being seen as barriers to innovation, regulators are proactively creating new avenues to engage with banks and fintech companies in order to better understand the evolving landscape featuring new financial product offerings. They are establishing relationships with technology companies of all sizes. As regulators' understanding of the ecosystem's interplay and interdependencies matures, the risk implications and regulatory considerations will become even clearer to the marketplace.

When focusing on digital transformation and technological innovation, banks can consider the following actions:

- Prepare for digital transformation to receive more attention in the coming year by adopting lessons learned about customer engagement, scalability, and resilience in a digital environment (including the use of emerging technologies such as artificial intelligence.
- Embrace agile banking and formulate a technology strategy to deconstruct the core information technology banking stack to support BaaS.
- Engage with regulators to develop a shared understanding of the evolving digital and technology transformation landscape and to exert influence that can help build awareness and reduce friction in the broader financial system, potentially reducing risk and associated costs while enhancing public-private perspectives on risks, mitigation techniques, etc.
- Review risk management framework and skills and recalibrate risk appetite to accommodate the new role of digital strategies, technology innovations, and use of fintech and/or Big Tech companies in evaluation of operating model changes.

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[REGULATORY OUTLOOK CONTINUED FROM PAGE 3]

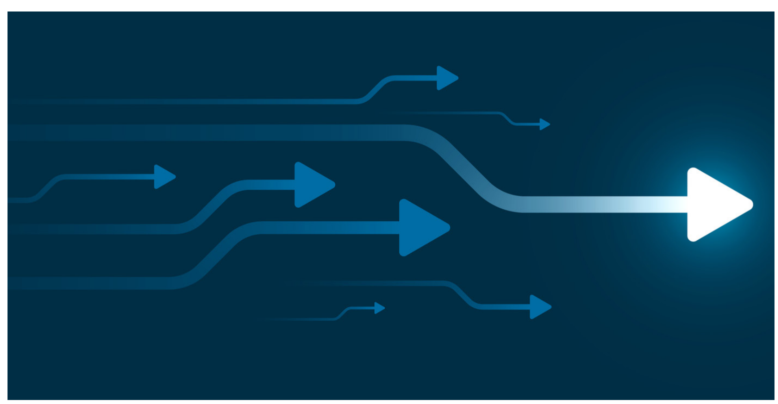
Heightened Focus on Operational Resilience

Building on the experience gained from the impacts of COVID-19 and resulting activity restrictions, operational resilience is rising up the strategic agenda for boards and senior management teams. Today's decisions to invest in resilience capabilities will aid in determining how effectively firms can navigate regulatory expectations and scrutiny in this area.

Significant regulatory policy development on operational resilience is now occurring at the national and jurisdictional level. In October 2020, US regulators FRB, OCC, and FDIC issued an interagency paper entitled Sound Practices to Strengthen Operational Resilience, which outlines key practices for addressing unforeseen challenges.

When focusing on operational resilience, banks can consider the following actions:

- **Broaden your mindset.** Look enterprise-wide at resilience activities and identify interconnections across various domains. This can support efforts to conduct an initial diagnostic of operational resilience capabilities to 1) identify where capabilities exist and what can be leveraged and 2) perform analysis to identify gaps between the existing maturity level and US sound practices. Operational resilience requires a mindset and cultural change and should consider strategic, reputational, and operational risks and an understanding of human behavior.
- **Establish a common vision and governance for your operational resilience journey.** Develop key themes, principles, and communications that will be used consistently and broadly to start shifting your culture from one that focuses on annual continuity tasks that must be completed to one that embeds resilience into daily management decisions at every level of operations. Consider the role of both the first and second line as your design your governance model and be deliberate about identifying across the operational resilience framework and firmwide response, including both senior management and the board.
- **Establish a clear focus on the highest-priority business service.** Understand and identify the most critical business services, then redirect priorities for existing programs and processes related to the business continuity management and resolution planning.
- **Create a single view of criticality across the enterprise.** Use an end-to-end view to understand critical business services and then identify the critical path for functions, teams, and systems. Focus on business services that are customers- and outcome-based, risk-aligned, and business-led and/or approved. Create accountability for the established priorities.



Governance and Control of Workforce Transformation

Governance and controls are sure to remain a hot regulatory topic in 2021, with the number of high-profile enforcement actions and fines reminding boards and senior management that continued risk management is essential. Strong governance is required to deliver financial services in a safe and sound manner. As such, regulators continue to focus on governance frameworks during examinations. In particular, regulators often identify a breakdown

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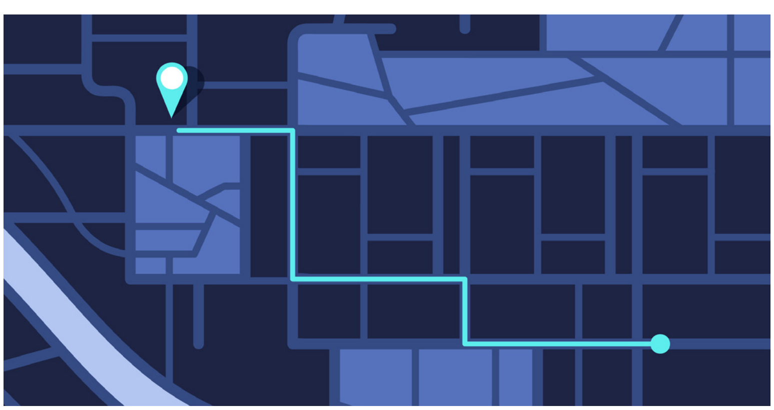
[REGULATORY OUTLOOK CONTINUED FROM PAGE 4]

in governance and controls as one of the root causes when things go wrong. All levels of the organization are being scrutinized, from the board and senior management to busines line, independent risk management, and audit functions.

When focusing on workforce transformation, governance, and accountability, banks should consider the following actions:

- **Update risk assessment to align with current conditions.** Identify gaps and deficiencies in the control environment; set priorities in supervision and compliance road maps; work to understand the long-term impacts of the new normal on working practices, people, and culture.
- **Continue to ensure the board is not just focused on day-to-day operation of the bank.** Governance and oversight should include setting strategy and establishing accountability; properly defining roles and responsibilities at all levels of the organization; holding the business lines accountable for managing risks they create; and honestly assessing the soundness of the firm's culture and taking positive steps to improve it.
- **Monitor related regulatory proposals that are outstanding.** The Federal Reserve issued in February finalized supervisory expectations for the board of directors, senior management, business lines management, and independent risk management and controls.
- **Accept the industry call to action to ensure foundational risk management and governance expectations are implemented and operational.** In many respects, this is getting back to basics. Urgency of actions should be calibrated



to the size and complexity of the organization. Effective change requires a three-lines model that drives self-awareness and self-improvement. The board, senior management, lines of business, independent risk management, and internal audit functions need to show, not just tell. This call to action should happen now, and a cultural shift should occur based on changes in structures, actions, and organizational commitment.

- **Evaluate impact of the call to action with this fundamental question:** *Is the three-lines model operating effectively?* Most banks would likely say "yes." However, key components might be missing or not operating as intended, which can lead to governance, risk management, and internal control challenges. Banks should pause and self-evaluate their ability to govern and manage themselves horizontally and vertically across businesses, legal entities, products, and jurisdictions.

Renewed Push for Consumer Protection

The new administration has signaled a desire to increase the focus on fair and responsible banking practices and roll back deregulatory measures taken during the previous administration. Housing is a priority area, with the stated goal of ending redlining and other discriminatory and unfair practices in the housing market. To achieve this objective, the new administration plans to leverage existing laws, such as the Community Reinvestment Act and the Home Mortgage Disclosure Act, as well as introducing

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[REGULATORY OUTLOOK CONTINUED FROM PAGE 5]

new legislation and rulemaking (such as a law modeled after the California Homeowner Bill of Rights and rulemaking to establish national standards for fair appraisals). New leadership at the CFPB is also expected to reverse what it views as "stripping" of the CFPB's Office of Fair Lending and Equal Opportunity, empowering the division to better protect consumers from discrimination.

- **Unfair, deceptive, or abusive acts or practices (UDAAP).** UDAAP may become front and center if enforcement activity increases. In our experience, UDAAP violations have been on of the most frequent violations of law cited in public and nonpublic enforcement actions by the CFPB. These violations often result in some hefty fines and heightened reputational risk. Since UDAAP can arise in any aspect of a consumer-facing process or product and often manifests itself separately from the compliance requirements of other laws or regulations, institutions should be ever-vigilant when assessing their processes and practices for compliance.
- **Fair and responsible banking.** Data collection for the purposes of fair lending oversight is gaining steam. The Biden administration has promised effective and rigorous enforcement of the Home Mortgage Disclosure Act, which provides regulators and the public with loan data used for fair lending analysis. Separately, the CFPB is in the process of writing a rule to implement section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act, which requires financial institutions to collect and submit information concerning credit applications by women-owned, minority-owned, and small businesses. The purpose of the rule will be to facilitate the enforcement of fair lending laws and enable stakeholders to identify community development needs and opportunities for these businesses.
- **Credit reporting data.** The CFPB, along with FRB, OCC, FDIC, and NCUA, are assessing credit reporting practices with respect to accurate data, as well as expanded access to credit through alternative data. Due to economic stress from the pandemic, there continues to be a high volume of credit forbearance requests before financial institutions, including directed by provisions in the CARES Act. The CFPB has issued guidance on recent changes to credit reporting law that "generally" requires furnishers to report as current certain credit obligations for which furnishers make payment accommodations to consumers affected by the pandemic and who have sought such accommodations from lenders.
- **Community Reinvestment Act (CRA).** The OCC issued a new CRA rule for the national banks and federal savings associations it supervises. Although the rule does not become fully effective until January 2024, it creates a time-sensitive need for OCC-supervised institutions to begin the process of assessing and bridging the gaps created by the new rule and implementing important process and system changes, including regulatory reporting, in advance of the effective date. State banks are also encouraged to closely monitor developments by the FRB and FDIC as they advance their own or coordinated CRA rulemaking efforts.

State regulators on the horizon

In 2020, California and New York expanded the stature, authority, and capacity of their consumer protection oversight and enforcement, with a focus on banks and nonbanking financial institutions (nonbanks), notably fintech companies. Both states indicated their expansion was in response to a perceived decrease in enforcement actions and consumer restitution at the federal level by the CFPB. The states have since increased funding for the NYDFS and the newly named California Department of Financial Protection and Innovation, enabling them to hire personnel,

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[REGULATORY OUTLOOK CONTINUED FROM PAGE 6]

coordinate with other agencies, and increase their supervisory scrutiny. Additionally, the Conference of State Bank Supervisors is pursuing a consistent supervisory process across all states – "networked supervision" – to help oversee and support innovation. This trend may encourage fintech companies to review their internal risk and control programs to ensure that legal, compliance, and reputational risks are successfully mitigated.

Deloitte goes on to identify several other emerging issues that can be reviewed by clicking here:

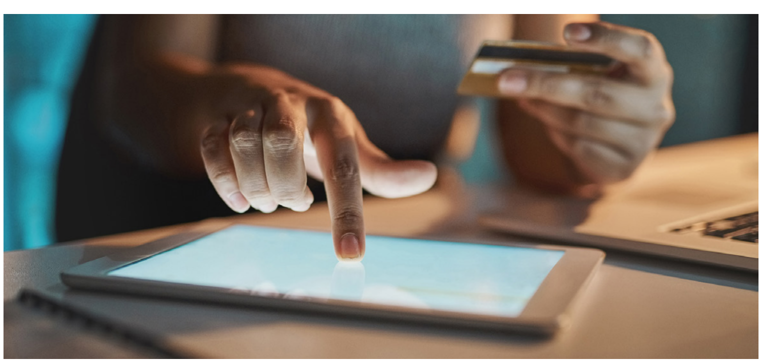
DELOITTE REGULATORY OUTLOOK

"PAYMENT DEFERRALS WERE A LIFELINE FOR MILLIONS DURING COVID. WHAT HAPPENS WHEN THOSE END?"

Consumer advocates warning of a looming debt crisis say they want the government's watchdog to take an aggressive role in policing predatory entities.

NBC News reports: By Adam Edelman for NBC News

The federal government's response to Covid-19 has allowed millions of Americans to defer payments on their mortgages, rent, student loans and utility bills.



But as more people are vaccinated and the country sees a return to normal life on the horizon, payments on trillions of dollars of those debts could resume soon, even if debtors remain out of work or in financial distress because of the economic crisis the outbreak wrought.

Consumer finance and regulatory experts, as well as Democratic lawmakers, warn that the coming debt crisis will be catastrophic for many people and that they could be a huge windfall for predatory financial institutions like debt collectors and payday lenders — industries regulated by the Consumer Financial Protection Bureau,

or CFPB, which President Joe Biden is trying to rebuild after it was hollowed out under former President Donald Trump.

"As the pandemic winds down, there is a lot of debt overhang: deferred rent, deferred mortgages, deferred student loans. We've basically been living in suspended animation until the pandemic ends," said Harvard Law School professor Howell Jackson, an expert on financial regulation and consumer protection who was a visiting scholar at the CFPB from 2013 to 2015.

"And at some point there is going to be an extraordinary number of people out there who are very vulnerable with debt, and we are going to have major debt collection issues," he said. "We have already seen issues during the pandemic with payday lenders."

Biden last month extended both the foreclosure moratorium for homeowners and a program that allows homeowners to pause

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[PAYMENT DEFERRALS CONTINUED FROM PAGE 7]

payments on their mortgages through the end of June. Earlier, in one of his first moves as president, Biden had extended the ability for borrowers to pause their federal student loan payments through the end of September, affecting about 40 million borrowers.

Many utility companies have also voluntarily allowed consumers to pause their payments on electric and gas bills during the economic crisis.

Consumer advocates praised the moves, as well as measures under the American Rescue Plan that provide direct financial relief to those people. But for many, the relief and the deferrals are not nearly enough, and even if Biden further extends the windows for not making payments, those, too will eventually close. And when they do, Jackson and others warned, the total amount headed for collection could be staggering.

"These periods of forbearance will eventually end. And when they do, there could be millions of families unable to resume paying mortgages, car payments, credit cards, student loans, who could be at risk of losing their homes, their cars, having their wages and bank accounts garnished, who will struggle to put food on the table and take care of their families," said David Silberman, who was the CFPB's associate director for research, markets and regulation from its inception through February 2020.

In fact, by the end of February, nearly one year into the pandemic, 1 in 5 renters were behind on payments, and more than 10 million homeowners were behind on mortgage payments.

In addition, an "avalanche" of student loan borrowers could soon default on their loans after the deferral period on those payments closes, Rohit Chopra, Biden's nominee to lead the CFPB, warned lawmakers during his confirmation hearing.

In all sectors, people of color face more severe economic distress and will bear the brunt of the coming wave of defaults.

According to the latest Census Household Pulse Survey, 18 percent of Hispanic borrowers, 17 percent of Black borrowers, 18 percent of Asian borrowers and 7.3 percent of white borrowers were not current on their mortgage payments. According to the data, 33 percent of Black renters were behind on their rent payments, along with 20 percent of Hispanic renters, 16 percent of Asian renters and 13 percent of white renters.

Student loan borrowers of color, meanwhile, are more likely to have taken out bigger loans and face a wage cap when they eventually enter the job market — which Chopra called a "double whammy" during his confirmation hearing.

As payments become due later this year, employed people strapped for cash are likely to have to rely on payday lenders,

experts warned, while unemployed and underpaid people could face the wrath of aggressive debt collectors.

Experts and Democratic lawmakers, including Sen. Elizabeth Warren, D-Mass., who helped create the agency during the Obama administration, have repeatedly said the CFPB is uniquely equipped to help distressed borrowers deal with those outcomes. But that is only if Biden is able to rebuild the agency to give it some teeth.

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[PAYMENT DEFERRALS CONTINUED FROM PAGE 8]

"All of that speaks to why we need to make sure this agency is up and running back to the way it was [under Obama] as quickly as possible," Senate Banking Committee Chairman Sherrod Brown, D-Ohio, said in an interview.

The agency could help bolster regulations of the payday lending industry — many of which were rescinded during the Trump era — and it could resume strict enforcement of aggressive debt collection practices, which were not frequently enforced under Trump.

While the agency cannot prevent debt collection or payday lending, it can significantly curtail how predatory the practices are by ensuring that rules that do exist are forcefully and fairly enforced and by writing new rules. Existing rules govern what kind of contact collectors can make with consumers (and how frequently) and what pressure they can use — mandating that collectors be truthful about the debts they are after — as well as how collectors report nonpayments to credit reporting agencies.

Jackson of Harvard said many debts also have statutes of limitation and become invalid after a certain period of time.

"It's critical to make sure consumers know they have rights in this area," he said. "There are a lot of substantive protections in the debt collection space."

Silberman, who worked at the agency for nearly a decade, said: "At the very least, the CFPB can assure that these consumers are treated fairly by their creditors and by debt collectors.

"It doesn't necessarily mean they won't ultimately suffer adverse consequences. In the end, the federal government will have to decide whether and how it can provide more assistance and relief," he said. "But the agency, if strong, can ensure fair treatment under the law for some of our most financially vulnerable consumers."

MORTGAGE SERVICERS WARNED OF COMING SURGE IN HOMEOWNERS NEEDING HELP

The CFPB announced April 1 it issued Compliance Bulletin 2021-02 to warn mortgage servicers to take all necessary steps now to prevent a wave of avoidable foreclosures in fall 2021. Millions of homeowners currently in forbearance will need help from their servicers when pandemic-related federal emergency mortgage protections are set to expire this summer and fall.

Servicers should dedicate sufficient resources and staff now to ensure they are prepared for a surge in borrowers needing help. The CFPB also said it will closely monitor how servicers engage with borrowers, respond to borrower requests, and process applications for loss mitigation. The CFPB will consider a servicer's overall effectiveness in helping consumers when using its discretion to address compliance issues that arise.

In its oversight of mortgage servicers, the CFPB is focused on preventing avoidable foreclosures. The CFPB will pay particular attention to how well servicers are:

- **Being proactive.** Servicers should contact borrowers in forbearance before the end of the forbearance period so they have time to apply for help.
- **Working with borrowers.** Servicers should work to ensure borrowers have all necessary information and should help

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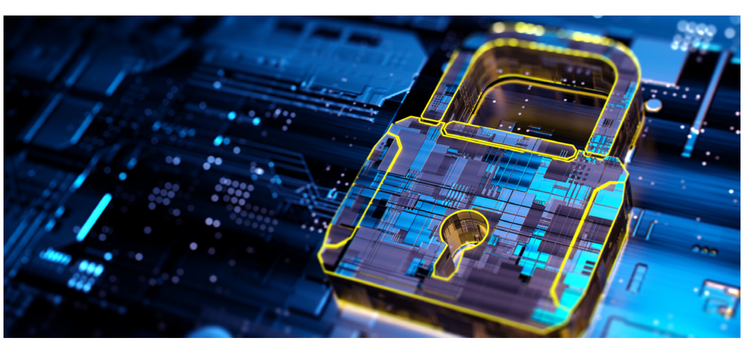
[MORTGAGE SERVICES CONTINUED FROM PAGE 8]

borrowers in obtaining documents needed to evaluate the borrowers for assistance.

- **Addressing language access.** The CFPB will look carefully at how servicers manage communications with borrowers with limited English proficiency maintain compliance with the Equal Credit Opportunity Act, and other related laws.
- **Evaluating income fairly.** Where servicers use income in determining eligibility for loss mitigation options, servicers should evaluate borrowers' income from public assistance, child-support, alimony or other sources in accordance with the Equal Credit Opportunity Act's anti-discrimination protections.
- **Handling inquiries promptly.** The CFPB will closely examine servicer conduct where telephone or messaging hold times are longer than industry averages.
- **Preventing avoidable foreclosures.** The CFPB will expect servicers to comply with foreclosure restrictions in Regulation X and other federal and state restrictions, in order to ensure that homeowners have an opportunity to save their homes before foreclosure is initiated.

Provided that servicers are demonstrating effectiveness in helping consumers, in accord with the compliance bulletin, the CFPB will continue to evaluate servicer activity consistent with the April 3, 2020, Joint Statement on Supervisory and Enforcement Practices Regarding the Mortgage Servicing Rules in Response to the COVID-19 Emergency and the CARES Act, which provides flexibility on certain timing requirements in the regulations.

READ THE BULLETIN



FROM SWISS CYBER-SLEUTHS, NEW LIGHT ON SOLARWINDS HACK

A report from a Swiss cybersecurity firm reveals new information about what may have been the most extensive hack to date, anywhere: the attack on management software provider SolarWinds. That attack in turn compromised networks in at least 4,720 companies, government institutions and IT providers, according to the report. Among other findings: the attack has continued into the month of March 2021, and the hackers generally work regular hours, 8 a.m. to 8 p.m., Monday through Friday, and take weekends off. The Swiss company, called PRODAFT (Proactive Defense Against Future Threats) also said the group shared servers with a known Russian criminal group and that the servers were in Russia and Ukraine. However, PRODAFT told Bloomberg News that it could not conclude the attack was state-sponsored and that more analysis would be required to make any such determination. This puts PRODAFT at odds with U.S. cybersecurity researchers, who have been open to point the finger at the Russian Federation.

READ ARTICLE

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BANK PROFITS RISE IN FOURTH QUARTER, FULL YEAR INCOME DECLINES

FDIC-insured banks and savings institutions earned $59.9 billion in the fourth quarter of 2020, a 9.1% increase from the year prior, but full-year net income declined 36.5% to $147.9 billion, the FDIC reported in its March 2021 Quarterly Banking Profile. FDIC Chairman Jelena McWilliams said that "while banking industry income for the full year 2020 declined from full year 2019 levels, banks remained resilient in fourth quarter 2020, consistent with the improving economic outlook."

READ THE QBP

AGENCIES PROPOSE NEW PRIVATE FLOOD INSURANCE Q&As

The Banking Agencies are requesting public comment on 24 proposed Interagency Questions and Answers regarding private flood insurance. The proposal is intended to help lenders with the agencies' 2019 join rule to implement the private flood insurance provisions of the Biggert-Waters Flood Insurance Reform Act of 2012. The proposal incorporates new questions and answers in a number of areas including mandatory acceptance, discretionary acceptance, and private flood insurance general compliance.

The proposed Q&As would supplement the 118 Interagency Questions and Answers Regarding Flood Insurance that the agencies proposed on July 6, 2020. Comments will be accepted up to May 17, 2021.

READ THE PROPOSED Q&As

REG BRIEFS

cfpb Consumer Financial Protection Bureau

CFPB's Commitment to Protecting Vulnerable Borrowers Statement (CFPB Release March 23, 2021)

The CFPB is acutely aware of consumer harms in the small dollar lending market and is particularly concerned with any lender's business model that is dependent on consumers' inability to repay their loans. Years of research by the CFPB found the vast majority of this industry's revenue came from consumers who could not afford to repay their loans, with most short-term loans in reborrowing chains of 10 or more. One-in-five payday loans, and one-in-three vehicle title loans, ended in default, even including periods of reborrowing. And one-in-five vehicle title loan borrowers ended up having their car or truck seized by the lender. That is real harm to real people.

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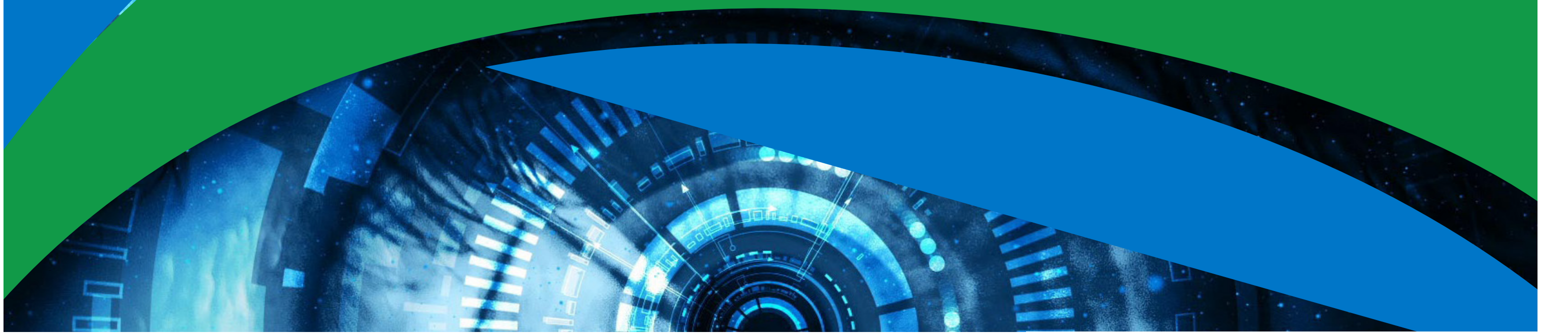

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In 2020, the prior administration issued a rule revoking parts of a 2017 CFPB rule that would have addressed these harms. The later rule was challenged in court and the Bureau had a legal obligation to respond to the lawsuit. Accordingly, the Bureau filed a brief addressing only the court's jurisdiction to hear the case. The brief does not address the merits of the underlying rule, and the Bureau's filing should not be regarded as an indication that the Bureau is satisfied with the status quo in this market. To the contrary, the Bureau believes that the harms identified by the 2017 rule still exist, and will use the authority provided by Congress to address these harms, including through vigorous market monitoring, supervision, enforcement, and, if appropriate, rulemaking.

The Bureau continues to believe that ability to repay is an important underwriting standard. To the extent small dollar lenders' business models continue to rely on consumers' inability to repay, those practices cause harm that must be addressed by the CFPB.

CFPB Rescinds 2020 Policy Statement on "Abusive" Practices Under Unfair, Deceptive and Abusive Acts or Practices

The Consumer Financial Protection Bureau rescinded a January 2020 policy statement that clarified the Bureau's approach to citing and challenging "abusive" conduct in supervision or enforcement actions.

In the now-rescinded statement, the CFPB had said that it would consider whether the harm to consumers outweighs the benefit to consumers, and that it would generally avoid "dual pleading" both abusiveness, and unfairness or deception violations that stem from the same or nearly all of the same facts. In addition, the CFPB had said it would generally not seek monetary relief for abusive violations in instances where there is a good-faith effort to comply with the abusiveness standard, except to address consumer injuries caused by the conduct.

Going forward, the CFPB said it "intends to exercise its supervisory and enforcement authority consistent with the full scope of its statutory authority under the Dodd-Frank Act as established by Congress".

READ MORE

CFPB Report Highlights 99% Timely Response to Complaints in 2020

The Consumer Financial Protection Bureau reported that banks and other companies responded in a timely manner to 99% of complaints submitted through the Bureau in 2020, according to its 2020 Consumer Response Annual Report. The report, which the Bureau is required to submit to Congress by March 31 of each year, provides an aggregate total of complaints submitted, as well as breakdown of complaints by the type of product.

The CFPB handled approximately 542,300 complaints last year – a nearly 54% increase over the approximately 352,400 complaints acknowledged in 2019. The report reflects issues consumers reported to the CFPB in 2020 as influenced by numerous factors including changing market conditions. It includes analyses of complaints across multiple consumer financial products and services:

- Credit and consumer reporting complaints accounted for more than 58% of complaints received, followed by debt collection (15%), credit card (7%), checking or savings (6%), and mortgage related (5%).
- Beginning in April 2020, consumers began to submit more than 3,000 complaints mentioning coronavirus keywords nearly every month. Consumers submitted approximately 32,100 complaints

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mentioning coronavirus or related keywords in 2020. Absence of coronavirus as a keyword in a complaint does not necessarily mean the complaint was not related to the financial impact of the pandemic.

- Consumers from Florida submitted more complaints per capita than consumers from any other state (309 complaints submitted per 100,000 in population).

The CFPB received 40,800 complaints from self-identified servicemembers, veterans, and military families.

READ THE ANNOUNCEMENT

CFPB Rescinds Temporary Flexibilities Statements

On April 1, 2021, the CFPB rescinded seven policy statements issued last year that provided temporary flexibilities to financial institutions in consumer financial markets including mortgages, credit reporting, credit cards, and prepaid cards. With the rescissions, the CFPB is providing notice that it intends to exercise the full scope of the supervisory and enforcement authority provided under the Dodd-Frank Act, to ensure the industry complies with consumer protection laws. The CFPB is also rescinding its 2018 bulletin on supervisory communications and replacing it with a revised bulletin describing its use of matters requiring attention (MRAs) to effectively convey supervisory expectations.

The policy statements to be rescinded, which will be published in the Federal Register, include but are not limited to:

- March 26, 2020, Statement on Bureau Supervisory and Enforcement Response to COVID-19 Pandemic.
- March 26, 2020, Statement on Supervisory and Enforcement Practices Regarding Quarterly Reporting Under the Home Mortgage Disclosure Act.
- March 26, 2020, Statement on Supervisory and Enforcement Practices Regarding CFPB Information Collections for Credit Card and Prepaid Account Issuers.
- April 1, 2020, Statement on Supervisory and Enforcement Practices Regarding the Fair Credit Reporting Act and Regulation V in Light of the CARES Act.
- April 27, 2020, Statement on Supervisory and Enforcement Practices Regarding Certain Filing Requirements Under the Interstate Land Sales Full Disclosure Act (ILSA) and Regulation J.
- May 13, 2020, Statement on Supervisory and Enforcement Practices Regarding Regulation Z Billing Error Resolution Timeframes in Light of the COVID-19 Pandemic.
- June 3, 2020, Statement on Supervisory and Enforcement Practices Regarding Electronic Credit Card Disclosures in Light of the COVID-19 Pandemic
- CFPB Bulletin 2021-01, which rescinds and replaces Bulletin 2018-01 (Changes to Types of Supervisory Communications).

READ THE ANNOUNCEMENT

CFPB Interpretive Rule on Prohibition Against Sex Discrimination

The CFPB has announced it has issued an interpretive rule clarifying that the prohibition against sex discrimination under the Equal Credit opportunity Act and Regulation B, includes sexual orientation discrimination and gender identify discrimination. The prohibition also covers discrimination based on actual or perceived nonconformity with traditional sex or gender-based stereotypes, and discrimination based on an applicant's social and other associations.

READ MORE

FDIC Consumer Compliance Supervisory Highlights

The FDIC has issued FIL-22-2021 to announce the release of the latest issue of the FDIC's Consumer Compliance Supervisory Highlights, which provides an overview of consumer compliance issues identified through the FDIC's supervision of state non-

[CONTINUED ON PAGE 14]

COMPLIANCE INSIGHTS

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

[REG BRIEFS CONTINUED FROM PAGE 13]

member banks and thrifts in 2020. This newest edition includes:

- A summary of the FDIC's supervisory approach in response to COVID-19;
- A description of the most frequently cited violations and other consumer compliance examination observations;
- Information on regulatory developments; and
- A summary of consumer compliance resources and information available to financial institutions

A table of most frequently cited violations highlights the numbers of Level 2 and Level 3 violations. There are three levels of concern from 1 to 3, with Level 1 representing the lowest level of concern. Representing 74 percent of the total violation cited in 2020, the most frequently cited violations involve: the Truth in Lending Act (TILA), Truth in Savings Act (TISA), Flood Disaster Protection Act (FDPA), Electronic Funds Transfer Act (EFTA), and the Real Estate Settlement Procedures Act (RESPA).

The report section on Consumer Compliance Examination Observations focuses on matters involving RESPA, TILA and fair lending.

READ THE HIGHLIGHTS

OCC Approved Final Rule on Supervisory Guidance

On January 19, 2021, the Office of the Comptroller of the Currency (OCC) approved a final rule confirming the OCC's use of supervisory guidance for banks. Essentially, the OCC clarified the differences between regulations and guidance, and making clear that supervisory guidance outlines supervisory expectations and priorities and are not subject to the force and effect of law and enforcement actions.

READ THE PRESS HIGHLIGHTS

FHFA Extends Loan Processing Flexibilities for GSEs

The Federal Housing Finance Agency said it would extend until April 30, 2021 certain previously announced loan processing flexibilities. These flexibilities, which were set to expire at the end of March, include the following: allowing alternative appraisals on purchase and rate term refinance loans; alternative methods for documenting income and verifying employment before loan closing; and expanding the use of power of attorney and remote online notarizations to assist with loan closings.

Some temporary flexibilities, including employment verification, condominium project reviews, and expanded power of attorney, are expected by FHFA to be retired on April 30.

READ MORE

FLOOD INSURANCE Q&A CORNER

Q When the building is a 1-4 family unit being used as a vacation rental and is rented nightly and weekly to generate income, should lenders consider the maximum limits subject to that of a residential or non-residential property?

A $250,000 is the maximum amount of coverage currently available from FEMA for a 1-4 family residential property, whether used for rental purposes or personal use. Higher amounts of coverage may be available with a private flood insurance policy.

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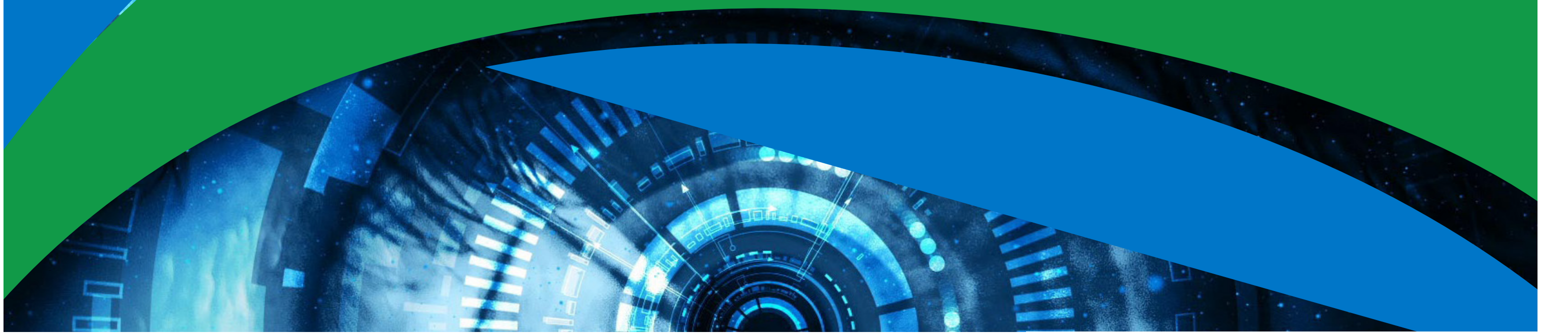
COMPLIANCE INSIGHTS

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



[FLOOD Q&A CONTINUED FROM PAGE 14]

Q Is it correct that a lender can accept private flood insurance only if it contains the "Compliance Aid" statement?

A Acceptance of private flood insurance is only mandated to be accepted if it meets the definition of private flood insurance as outlined in Biggert-Waters Flood Insurance Reform Act and implementing regulations.

Q How can the "Compliance Aid" provision be used?

A The Private Flood final rule includes the "Compliance Aid" provision designed to facilitate lenders' determination as to whether a flood insurance policy can be accepted under the "mandatory acceptance" provision. The "Compliance Aid" in the final rule is in the form of an assurance clause statement.

Specifically, a lender may determine that a policy meets the definition of "private flood insurance" without further review of the policy if the following warranty statement is included within the policy or as an endorsement to the policy:

"This policy meets the definition of private flood insurance contained in 42 U.S.C. Section 4012a(b)(7) and the corresponding regulation."

Q When assets inside the building located in a flood zone also secure the loan, such as through a business security agreement, how often must a lender review the value of those contents to ensuresufficient contents coverage? What if there are no contents - only other non-insurable assets, can files be documented to show no assets are insurable and therefore not required to have contents coverage?

A You must obtain the correct amount of flood insurance at the time a loan is made, increased, renewed, or extended (MIRE). If you obtain the correct amount of contents coverage at the time of the MIRE event, then the contents coverage does not need to be re-evaluated until the time of the next MIRE event.

The language of the security agreement is to list the items included in the collateral. If there are no such collateralized items in the building, or if such items cannot be insured (although a rarity, as pretty much any type of personal property can be insured) then contents coverage would not be needed.

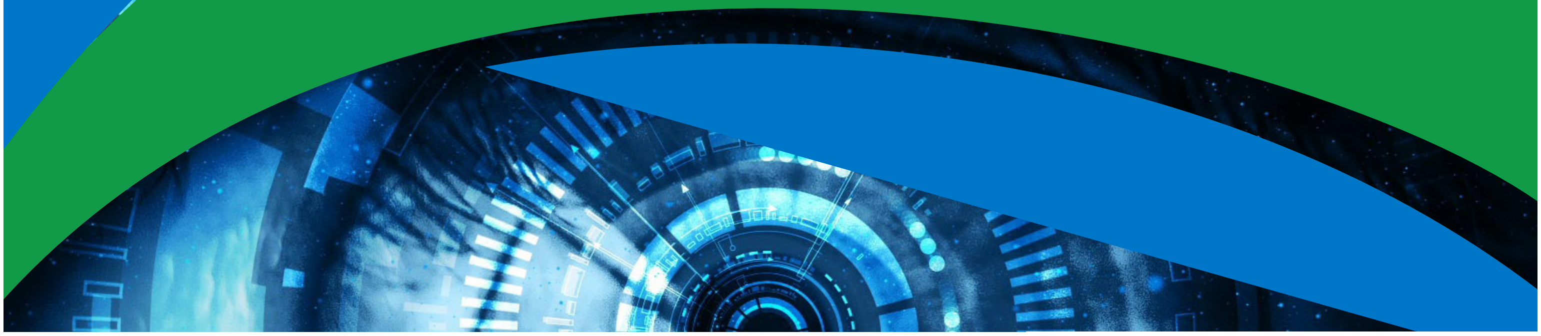
LOSS DRAFTS WEBINAR

OSC has a highly skilled, time-tested and proven loss draft team to help you significantly streamline property claims involving third party contractors for your mortgagees by handling inspections virtually, as well as coordinating documentation and follow-up via electronic communication. **Join us on Tuesday, May 11, 2021 at 1:30 EST for a 30-minute webinar** where we'll share best practices on servicing and tracking loss draft claims presented by OSC's loss administration expert, Victoria Koglmeier. Take advantage of this opportunity to get caught up on the latest best practices and helpful insights.

CLICK HERE TO REGISTER

COMPLIANCE INSIGHTS

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



GOT MORTGAGE IMPAIRMENT?

The increasing regulations that help protect your clients can often create complexities when it comes to fully protecting your collateral and ensuring flawless business practices at all times. In the servicing of mortgages, many other nuanced risks also exist.

To protect from the possibility of time-consuming and sizable claims, Mortgage Impairment insurance can provide the necessary coverage to mitigate exposures in this dynamic business environment. Your policy can be tailored to include protection for certain non-covered losses, regulatory, or legal actions that may result from errors and omissions by an employee, based on your needs.

Contact your OSC or SUI client services team member for a complimentary assessment and competitive quote.

BANK-OWNED PROPERTY INSURANCE PROGRAM

With lending institutions facing the risk of higher than normal foreclosure percentages, there is a growing need for an REO insurance program that can stand on its own. We have developed **REOCover** to provide financial institutions with peace of mind knowing that foreclosed assets will be protected by best-in-class insurance with highly competitive rates.

Traditionally, financial institutions insure foreclosed/REO assets through a lender-placed policy for the mortgagee with REO coverage added as an endorsement. REOCover and REOCover PLUS provides the lender a stand-alone REO master policy outside of the lender-placed environment and potential premium savings should you implement additional property preservation and REO management services.

Please reach out to your OSC or SUI business development or client services representative for more details.