

APRIL 2023 FREE COMPLIANCE NEWSLETTER

CFPB FINALIZES RULE TO CREATE A NEW DATA SET ON SMALL BUSINESS LENDING IN AMERICA (1071 RULE)

We were starting to wonder if this was coming or not, but with about 35 hours to spare before the mandated deadline, the CFPB finally issued the final rule on 1071. There is a lot to this rule, but here are a few of the highlights:

- The rule covers lenders making over 100 covered small business loans per year
- Rule covers diverse forms of credit by all types of lenders
- Use straightforward definitions and streamlined forms to know on which applications to collect data, and the rule defines a small business as one with gross revenue under \$5 million in the last fiscal year.
- Phased in implementation – not everyone will start reporting at the same time:
 - Lenders originating at least 2,500 small business loans will start collecting data on 10/1/2024
 - Lenders originating at least 500 loans will start collecting data on 4/1/2025
 - Lenders originating at least 100 loans will start collecting data on 1/1/2026

The final rule in all 888 pages of its glory can be found [here](#). You can find a much shorter factsheet [here](#). You can read the executive summary to the rule [here](#).

2022 MORTGAGE LENDING HMDA DATA NOW AVAILABLE

The 2022 Home Mortgage Disclosure Act (HMDA) Modified Loan Application Register (LAR) data is now available on the FFIEC HMDA Platform for approximately 4,394 HMDA filers. The published data contains loan-level information filed by financial institutions and is modified to protect consumer privacy. This year, in addition to institution-specific modified LAR files, users can download one combined file that contains all institutions' modified LAR data. You may access the HMDA data by clicking [here](#).

CFPB ISSUES UPDATES TO AGENCY CONTACT INFORMATION

The CFPB is issuing this final rule to make non-substantive corrections and updates to Bureau and other Federal agency contact information found at certain locations in Regulations B, E, F, J, V, X, Z, and DD, including Federal agency contact information that must be provided with Equal Credit Opportunity Act adverse action notices and the Fair Credit Reporting Act Summary of Consumer Rights. This final rule also revises the chapter heading, makes various non-substantive changes to Regulations B and V, and provides a Bureau website address where the public may access certain APR tables referenced in Regulation Z. Read the full rule [here](#) to learn more about effective dates and how these changes affect each of the different regulations.

HUD ANNOUNCES TO RESTORE “DISCRIMINATORY EFFECTS” RULE

HUD announced the department plans to rescind 2020 Fair Housing Act rule and restore the 2013 policy to eradicate discriminatory practices from the housing market. In the Final Rule, HUD emphasizes that the 2013 rule is more consistent with how the Fair Housing Act has been applied in the courts and in front of the agency for more than 50 years, and that it more effectively implements the Act's broad remedial purpose of eliminating unnecessary discriminatory practices from the housing market. Read the full HUD press release [here](#). This final rule will go into effect 30 days after it is published in the Federal Register. You can read the final rule [here](#).

CFPB AND DOJ RELEASE STATEMENT OF INTEREST REGARDING DISCRIMINATORY APPRAISALS

We have heard that there will be a crackdown on more appraisal bias issues, and here is more of it. On March 13, 2023 the CFPB and DOJ filed a statement of interest to explain the application of the Fair Housing Act (FHA) and the Equal Credit Opportunity Act (ECOA) to lenders relying on discriminatory home appraisals. The statement of interest was filed in *Connolly, et al. v Lanham, et al.*, a lawsuit that is currently pending in the U.S. District Court for the District of Maryland which alleges that an appraiser and a lender violated the FHA and ECOA by lowering the valuation of a home because the owners were Black and by denying the refinancing of a mortgage based off that appraisal. Click [here](#) to read the full DOJ press release, and you can find the full statement of interest [here](#).

Staying on appraisal bias for a moment, the San Francisco couple that sued for appraisal bias when their home appraised for nearly \$500,000 less than what it was worth had their court case settled. If you are not familiar with the story, NPR covered it. You can read the story [here](#).

CFPB SEEKING INPUT ON MORTGAGE LOAN ORIGINATOR RULE

Recently, the CFPB announced that it has begun a mandated review of mortgage loan originator rules and will take public comment as part of that process. The rules implement Regulation Z of the Truth in Lending Act, which sets requirements and restrictions on loan originator compensation; qualifications, registration and licensing of loan originators; compliance procedures for depository institutions; mandatory arbitration; and the financing of single-premium credit insurance. You can find the CFPB section notice and request for comment [here](#). For further information on the rules governing loan origination practices click [here](#).

SUPERVISORY HIGHLIGHTS JUNK FEES SPECIAL EDITION RELEASED

The CFPB recently released a special edition of its Supervisory Highlights specifically regarding unlawful junk fees uncovered in deposit accounts and in multiple loan servicing markets, including in mortgage, student, and payday lending. The CFPB's prior supervision work led the agency to issue guidance in October 2022, on the longstanding problem of [surprise overdraft fees](#). As of today, after the CFPB's focus on surprise overdrafts, at least 20 of the largest banks in the United States, which hold 62% of the volume of consumer deposit accounts subject to the CFPB's supervisory authority, do not charge surprise overdraft fees. Additionally, banks that the CFPB has examined thus far will refund roughly \$30 million to about 170,000 account holders who were assessed surprise overdraft fees.

This Supervisory Highlights special edition covers unlawful junk fees in the areas of bank account deposits, auto loan servicing, mortgage loan servicing, payday lending, and student loan servicing found during examinations between July 1, 2022, and February 1, 2023. Click [here](#) to access the Supervisory Highlights.



PART OF YOUR COMPLIANCE TEAM

NCUA BOARD APPROVES FINAL RULE ON CYBER INCIDENT REPORTING REQUIREMENTS

The NCUA Board unanimously approved a [final rule](#) that requires a federally insured credit union to notify the NCUA as soon as possible, within 72 hours, after it reasonably believes that a reportable cyber incident has occurred.

Under the final rule, federally insured credit unions are required to report a cyber incident that leads to a substantial loss of confidentiality, integrity, or availability of a network or member information system as a result of the exposure of sensitive data, disruption of vital member services, or that has a serious impact on the safety and resiliency of operational systems and processes. Additionally, cyberattacks that disrupt a credit union's business operations, vital member services, or a member information system must be reported to the NCUA within 72 hours of a credit union's reasonable belief that it has experienced a cyberattack. The effective date of this final rule is September 1, 2023.

