



Atlanta Region Division of Depositor & Consumer Protection QUARTERLY NEWSLETTER

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Agencies Issue Final Rule to Strengthen and Modernize Community Reinvestment Act Regulations

On October 24, 2023, the Federal Deposit Insurance Corporation, Federal Reserve Board, and the Office of the Comptroller of the Currency (collectively, the Agencies) jointly issued a [final rule](#) to strengthen and modernize regulations implementing the Community Reinvestment Act (CRA) to better achieve the purposes of the law. The CRA is a landmark law enacted nearly 50 years ago to encourage banks to help meet the credit needs of their entire communities, especially in low- and moderate-income (LMI) neighborhoods, in a safe and sound manner. Building on research and feedback from commenters on the 2022 proposed CRA rule, the final rule updates the CRA regulations to achieve the following key goals:

Encourage banks to expand access to credit, investment, and banking services in LMI

communities. Under the final rule, the Agencies will evaluate bank performance across the varied activities they conduct and communities in which they operate so that the CRA continues to be a strong and effective tool to address inequities in access to credit and financial services. The final rule promotes financial inclusion by supporting bank activities with Minority Depository Institutions and Community Development Financial Institutions and in Native Land Areas, rural areas, persistent poverty areas, and other high-need areas.

Adapt to changes in the banking industry, including internet and mobile banking. The final rule updates the CRA regulations to evaluate lending outside traditional assessment areas generated by the growth of non-branch delivery systems, such as online and mobile banking, branchless banking, and hybrid models. It is calibrated to recognize the continued importance of bank branches, while establishing a framework to evaluate the digital delivery of banking products and services for certain banks.

Provide greater clarity and consistency in the application of the CRA regulations. The final rule adopts a new metrics-based approach to evaluating bank retail lending and community development financing, using benchmarks based on peer and demographic data. The Agencies will develop data tools using reported loan data that give banks and the public additional insight into performance standards. The final rule also clarifies eligible CRA activities, such as affordable housing, that are focused on LMI, underserved, native, and rural communities.

Tailor CRA evaluations and data collection to bank size and type. The final rule recognizes differences in bank size and business models. For example, small banks will continue to be evaluated under the existing framework with the option to be evaluated under the new framework. The rule also exempts small and intermediate banks from new data requirements that apply to banks with assets of at least \$2 billion and limits certain new data requirements to large banks with assets greater than \$10 billion.

The final rule is effective April 1, 2024, but most of the rule's provisions, such as the data collection requirements and the new performance tests, will be applicable beginning January 1, 2026. Data reporting requirements will be applicable on January 1, 2027. Given the scope of the updates, the Agencies have published a [CRA Final Rule Fact Sheet](#) and [Overview of the CRA Final Rule](#), which summarize the objectives and key elements of the rule. Also see [Agencies Finalize Rule Updating and Modernizing the Community Reinvestment Act \(CRA\)](#) (FIL-61-2023).

2024 National Interagency Community Reinvestment Conference

Registration for the March 4-7, [2024 National Interagency Community Reinvestment Conference](#) (NICRC) in Portland, Oregon is open! As the premier conference for community development, the NICRC offers insights, emerging ideas, and promising practices shared by community development experts from around the country. The program includes our signature regulator-led sessions on Community Reinvestment Act (CRA) examinations. This year, attendees will learn about the current regulatory process as well as what to expect under the revised CRA regulation, which was issued on October 24, 2023.



[Register today!](#) Don't miss the chance to learn from and network with leaders and peers from across a range of sectors—all aiming to make meaningful change in our communities.

Sponsored by the Federal Deposit Insurance Corporation; the Federal Reserve Board; the Federal Reserve Banks of San Francisco and Chicago; and the Office of the Comptroller of the Currency.



The New Banker Engagement Site for Pre-Examination Planning Activities

The FDIC recently released the Banker Engagement Site (BES) through [FDICconnect](#). BES provides FDIC-supervised institutions a secure and efficient portal to exchange documents, information, and communication for consumer compliance and Community Reinvestment Act examinations. BES is the primary tool to exchange pre-examination planning information between the bank and the Division of Depositor and Consumer Protection examination team.

To assist users with navigating the BES, we have developed several resources, including an [Introduction to BES video](#), a comprehensive [BES User Guide](#), [BES Access Job Aid](#), and [FAQs](#). Questions regarding BES access should be directed to the [FDICconnect Helpdesk](#), and issues related to its functionality should be directed to the FDIC Helpdesk. You can find contact information for the Helpdesks on page 2 of the BES User Guide. For information about BES, please check out Financial Institution Letter (FIL) titled, ["Announcing FDICconnect's Banker Engagement Site for Consumer Compliance and CRA Examination Activities"](#) (FIL-49-2023).

Technical Assistance Videos

As part of the FDIC's Community Bank Outreach Program, the FDIC is proud to offer the Technical Assistance Video Program. The purpose of this program is to provide videos that convey fundamental information pertaining to various aspects of the examination process and areas of supervisory focus. These resources are intended for community bank board members, officers, and employees. The FDIC recently updated the [Technical Assistance Video Program](#) webpage. Video topics include:

- [Overview of the FDIC and the Examination Process](#): This video provides an overview of the FDIC, its mission, and how the FDIC conducts various examination activities.
- [Information for New Board Members](#): This video provides information for new bank board members and an overview of their individual and collective responsibilities.
- [Corporate Governance](#): This video highlights the importance of corporate governance and describes the roles of individual directors and the board as a whole.

These videos, as well as several consumer compliance-related videos, are available on the FDIC's [Technical Assistance Video Program](#) webpage and on the [FDIC's YouTube channel](#). Additional supervisory information and resources are available on the [Banker Resource Center](#) website.

2023 Regulatory Developments

This past year, there were changes to federal consumer compliance laws and regulations that may affect your institution. The table below lists some of the regulations, advisory opinions, policy statements, supervisory guidance, and regulatory determinations that were implemented or became effective in 2023, as well as a final rule scheduled to become effective in 2024. The table provides a brief summary for each item, hyperlinks to applicable reference documents, and the effective date of the change based on information available at the time of publication. While this information does not reflect every legislative or regulatory change affecting your institution, we hope it assists you and your staff with locating information regarding important consumer compliance-related changes.

Year in Review...

Subject	Type	Summary	Effective Date ¹
Community Reinvestment Act (CRA)	Final Rule	<p>The FDIC, the Board of Governors of the Federal Reserve System (FRB), and the Office of the Comptroller of the Currency (OCC) jointly issued a final rule to strengthen and modernize regulations implementing the CRA to better achieve the purposes of the law. The CRA is a landmark law enacted nearly 50 years ago to encourage banks to help meet the credit needs of their entire communities, especially in low- and moderate-income neighborhoods, in a safe and sound manner.</p> <p>The effective date of the final rule is April 1, 2024; however, most of the rule's requirements will be applicable beginning January 1, 2026. The remaining requirements, including the data reporting requirements, will be applicable on January 1, 2027.</p> <p>Link to Financial Institution Letter (FIL)-61-2023</p>	4/1/24
Crypto-Asset Risks	Interagency Statement	<p>The FDIC, FRB, and the OCC issued an interagency statement highlighting key risks for banking organizations associated with crypto-assets and the crypto-asset sector and the agencies' approach to supervision in this area.</p> <p>Link to FIL-01-2023</p>	1/5/23
Electronic Fund Transfer Act (EFTA)	Final Rule	<p>In October 2022, the FRB issued a final rule amending Regulation II to: (1) specify that the requirement that each debit card transaction must be able to be processed on at least two unaffiliated payment card networks applies to card-not-present transactions; (2) clarify the requirement that debit card issuers ensure that at least two unaffiliated networks have been enabled to process a debit card transaction; and (3) standardize and clarify the use of certain terminology.</p> <p>Regulation II implements section 920 of EFTA regarding interchange transaction fees for debit card transactions and rules for debit card and credit card transactions.</p> <p>Link to Federal Register</p>	7/1/23

¹ In general, the earliest effective date is noted. Other provisions may have subsequent effective dates. Please refer to links for specific dates.

Subject	Type	Summary	Effective Date ¹
Equal Credit Opportunity Act (ECOA)	Final Rule	<p>The CFPB amended Regulation B to implement changes to ECOA made by section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act. Consistent with section 1071, covered financial institutions are required to collect and report to the CFPB data on applications for credit for small businesses, including those that are owned by women or minorities.</p> <p><i>*The Final Rule has an effective date of 8/29/23. As a result of ongoing litigation, all deadlines for compliance with the small business lending rule currently are stayed for all covered financial institutions.</i></p> <p>Link to Federal Register</p>	*
ECOA	Policy Statement	<p>The CFPB issued Consumer Financial Protection Circular 2023-03 confirming that when using artificial intelligence or complex credit models, creditors may not rely on the checklist of reasons provided in the sample forms (currently codified in Regulation B) to satisfy their obligations under ECOA if those reasons do not specifically and accurately indicate the principal reason(s) for the adverse action. Additionally, the Circular states that, as a general matter, creditors may not rely on overly broad or vague reasons to the extent that they obscure the specific and accurate reasons relied upon.</p> <p>The CFPB previously issued Consumer Financial Protection Circular 2022-03 affirming that creditors are not excused from their adverse action notice obligations under ECOA simply because they rely on complex algorithmic underwriting models in making credit decisions.</p> <p>Link to Consumer Financial Protection Circular 2023-03 Link to Consumer Financial Protection Circular 2022-03</p>	9/19/23
ECOA	Joint Statement	<p>The CFPB and the Department of Justice released a joint statement for informational purposes to assist creditors and borrowers in understanding the potential civil rights implications of a creditor's consideration of an individual's immigration status under ECOA.</p> <p>Link to Federal Register</p>	10/12/23
Fair Debt Collection Practices Act (FDCPA)	Advisory Opinion	<p>The CFPB issued an advisory opinion affirming the FDCPA and its implementing Regulation F prohibit a debt collector, as the term is defined in the statute and regulation, from suing or threatening to sue to collect a time-barred debt.</p> <p>Link to Federal Register</p>	5/1/23
Fair Housing Act (FHA)	Final Rule	<p>The FDIC made a technical correction to the FDIC's Fair Housing Rule to reinsert a previous instruction regarding the Equal Housing Lending Poster.</p> <p>Link to Federal Register</p>	6/23/23

Subject	Type	Summary	Effective Date ¹
Home Mortgage Disclosure Act (HMDA)	Supervisory Guidance	<p>The FDIC issued supervisory guidance to inform supervised institutions of changes regarding the HMDA reporting threshold for closed-end mortgage loans and the FDIC's supervisory approach for enforcing related requirements.</p> <p>Link to FIL-06-2023</p>	2/3/23
London Inter-Bank Offered Rate (LIBOR)	Interagency Statement	<p>The CFPB, FDIC, FRB, National Credit Union Administration (, and OCC, in conjunction with the state bank and state credit union regulators (collectively, agencies), issued a statement to remind supervised institutions that U.S. Dollar (USD) LIBOR panels would end on June 30, 2023. The agencies also reiterated their expectations that institutions will have taken all necessary steps to prepare for an orderly transition away from LIBOR by June 30, 2023.</p> <p>Link to FIL-20-2023</p>	4/26/23
Real Estate Settlement Procedures Act (RESPA)	Advisory Opinion	<p>The CFPB issued an advisory opinion addressing the applicability of RESPA section 8 to operators of certain digital technology platforms that enable consumers to comparison shop for mortgages and other real estate settlement services, including platforms that generate potential leads for the platform participants through consumers' interaction with the platform.</p> <p>Link to Federal Register</p>	2/13/23
Telephone Consumer Protection Act (TCPA)	Final Rule	<p>On January 20, 2023, the Federal Communications Commission (FCC) announced the effective date for the rule implementing section 8 of the Pallone-Thune Telephone Robocall Abuse Criminal Enforcement and Deterrence Act per the TCPA Exemptions Order, published on February 25, 2021.</p> <p>Link to Federal Register – 2021 Final Rule Link to Federal Register – Effective Date</p>	7/20/23
TCPA	Final Rule	<p>On January 20, 2023, the FCC amended its rules to allow callers the option of obtaining either oral or written consent if they wish to make more calls than the numerical limits on exempted artificial or prerecorded voice message calls to residential telephone lines, and affirmed the numerical limits and opt-out requirements on such calls.</p> <p>Link to Federal Register</p>	7/20/23
Third-Party Relationships	Interagency Guidance	<p>The FDIC, FRB, and OCC issued final guidance on managing risks associated with third-party relationships. The guidance provides sound principles that support a risk-based approach to third-party risk management that banking organizations may consider when developing and implementing risk management practices for all stages in the life cycle of third-party relationships.</p> <p>Link to Federal Register</p>	6/6/23

Subject	Type	Summary	Effective Date ¹
Truth in Lending Act (TILA)	Preemption Determination	<p>The CFPB issued a determination that commercial financing disclosure laws in California, New York, Utah, and Virginia are not preempted by TILA.</p> <p>Link to Federal Register</p>	3/31/23
TILA	Interim Final Rule (LIBOR Transition)	<p>The CFPB issued an interim final rule amending Regulation Z to reflect the enactment of the Adjustable Interest Rate LIBOR Act. The interim final rule further addresses the planned cessation of most USD LIBOR tenors after June 30, 2023, by incorporating the FRB-selected benchmark replacement for consumer loans into Regulation Z.</p> <p>Link to Federal Register</p>	5/15/23
TILA	Final Rule (LIBOR Transition)	<p>In 2021, the CFPB issued a final rule amending Regulation Z to address the anticipated sunset of LIBOR. The CFPB amended open- and closed-end provisions to provide examples of replacement indices for LIBOR indices that meet certain Regulation Z standards and related matters.</p> <p><i>*The final rule was effective April 1, 2022, except the amendment to appendix H to part 1026 in amendatory instruction 8, which was effective on October 1, 2023.</i></p> <p>Link to Federal Register – Final Rule</p>	10/1/23*
Unfair, Deceptive, or Abusive Acts or Practices (UDAAP)	Policy Statement (Negative Option Marketing Practices)	<p>The CFPB issued Consumer Financial Protection Circular 2023-01 confirming that “covered persons” and “service providers” that engage in negative option marketing practices must comply with the prohibition on unfair, deceptive, or abusive acts or practices (UDAAP) in the Consumer Financial Protection Act (CFPA). The circular also provides information where a seller may violate the prohibition on UDAAP.</p> <p>Link to Federal Register</p>	1/19/23
UDAAP	Policy Statement (Student Loans)	<p>The CFPB issued Compliance Bulletin 2023-01, addressing the treatment of certain private student loans following bankruptcy discharge. Student loan servicers who collect on student loans that are discharged by a bankruptcy court are likely engaging in an unfair act or practice in violation of the CFPA.</p> <p>Link to Federal Register</p>	3/23/23
UDAAP	Policy Statement (Abusive Acts or Practices)	<p>The CFPB issued a policy statement summarizing actions taken by agencies to enforce prohibitions on abusive conduct under the CFPA. The CFPB also explains how the agency analyzes the elements of abusiveness through relevant examples, with the goal of providing an analytical framework to fellow government enforcers and supervisory agencies and to the market for how to identify violative acts or practices.</p> <p>Link to Federal Register</p>	4/12/23

Subject	Type	Summary	Effective Date ¹
UDAAP	Supervisory Guidance (Authorize Positive, Settle Negative)	<p>The FDIC issued supervisory guidance to its supervised institutions to ensure that supervised institutions are aware of the consumer compliance risks associated with assessing overdraft fees on a transaction that was authorized against a positive balance but settled against a negative balance.</p> <p>Link to FIL-19-2023</p>	4/26/23
UDAAP	Policy Statement (Reopening Deposit Accounts)	<p>The CFPB issued Consumer Financial Protection Circular 2023-02, confirming that if a financial institution unilaterally reopens a deposit account that a consumer previously closed to process a debit (i.e., withdrawal, ACH transaction, check) or deposit, it can constitute an unfair act or practice under the CFPA.</p> <p>Link to Federal Register</p>	5/10/23
UDAAP	Supervisory Guidance (Re-Presentation)	<p>The FDIC updated its <i>Supervisory Guidance on Multiple Re-Presentation NSF Fees (FIL-40-2022)</i> to clarify its supervisory approach for corrective action when a violation of law is identified.</p> <p>Link to FIL-32-2023</p>	6/16/23
Various Regulations	Final Rule	<p>The CFPB issued a final rule to make non-substantive corrections and updates to CFPB 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 the ECOA adverse action notices and the Fair Credit Reporting Act Summary of Consumer Rights.</p> <p>Link to Federal Register</p>	4/19/23
Various Regulations	Notice	<p>The CFPB announced the availability of a revised version of its “Methodology for Determining Average Prime Offer Rates (APOR),” which describes the data and methodology used to calculate the APOR for purposes of Regulations C and Z.</p> <p>Link to Federal Register</p>	4/21/23

Community Affairs Corner

Homeownership Preservation Strategies

In this article, we remind banks about the opportunity to foster economic inclusion by preserving homeownership through relationship-building, awareness, and education.

Why is this important? Homeownership is a significant financial investment for most households. Owning a home provides a sense of security and accomplishment and may also lead to wealth building. Implementing strategies that help people maintain their homes promotes stability in households and communities. By preserving homeownership, communities can maintain property values and encourage economic development. Housing preservation contribute to the stability and unity of communities. Finally, developing, implementing, or participating in housing preservation strategies can help individuals avoid foreclosure and reduce homelessness.

What can my bank do? Banks can support homeownership preservation programs offered by municipal and state governments, and community-based organizations. Banks can also identify borrowers who are at risk of default and proactively reach out to them to discuss available options for assistance. Options might include referrals to homeownership counseling organizations, or offering mortgage loan modifications or other workout strategies that are affordable and sustainable. When a borrower is at risk of default, early and frequent customer contact may increase the likelihood of successful foreclosure mitigation.

What are other ways to engage? Banks can consider supporting or otherwise collaborating with organizations that offer educational programs designed to help keep families in their homes. Collaborating with the [Department of Housing and Urban Development](#) (HUD)-approved [housing counseling agencies](#), [local NeighborWorks affiliates](#), or other nonprofits that specialize in housing development and preservation can help identify opportunities to engage in housing preservation programs and initiatives. Partnering with government agencies at the local, state, and federal levels can also lead to initiatives and policies that support housing preservation. This includes working with housing authorities, local offices of government agencies such as the HUD, [Community Development Financial Institutions](#), and community-based organizations that have a deep understanding of local needs.

What online resources are available? The FDIC's [Affordable Mortgage Lending Center](#) helps community banks compare a variety of current affordable mortgage programs including resources to promote home preservation. The Center includes a [resource page](#) with links to data, fact sheets, calculators, websites, webinars, and other mortgage information to help community bankers with responsible mortgage lending practices. In addition, the FDIC's [Residential Real Estate](#) resource page in its [Banker Resource Center](#) includes guidance and other information to help bankers work with borrowers. Also see the Supervisory Insights article [Regulatory Actions Related to Foreclosure Activities by Large Servicers and Practical Implications for Community Banks](#).

How can I learn more or get engaged? The FDIC collaborates with a wide range of organizations to promote greater economic inclusion. The Atlanta Region recently held one webinar focused on these and related topics. Contact Regional Manager LaTonya M. Edwards at latedwards@fdic.gov if you would like additional information on these or other events of initiatives. View our list of [Upcoming Community Affairs Events](#) or contact our [Community Affairs Regional Offices](#) for more information.

Follow us on social media @FDICgov and use our hashtag: #FDIC.



Upcoming Atlanta Community Affairs Events

To view and register for all Community Affairs event visit [Community Affairs Events](#)

Tax Season Bankable Moments Partnership Opportunities with Bank On and VITA, January 17, 2024 from 10:00 AM – 11:15AM EST - [Victor Galloway](#)

The FDIC, Bank On Virginia Beach, and the Internal Review Service Volunteer Income Tax Assistance (VITA) will host a webinar to promote tax season partnership opportunities and bankable moments for unbanked households. Presenters will discuss VITA, partnership opportunities, financial empowerment resources and the FDIC 2021 National Survey of Unbanked and Underbanked Households.

FDIC Discusses Tax Season Partnership Opportunities in Florida with Bank On and VITA, January 26, 2024 from 10:00 AM – 11:00 AM EST – [Rhonda Little](#)

The FDIC will host a webinar to promote tax season partnership opportunities with Bank On Suncoast and VITA. The purpose of the webinar is to increase the establishment of bank accounts for unbanked individuals, particularly low- and moderate-income individuals. Attendees will learn collaborative opportunities to support and partner with Florida organizations committed to holistic approaches to economic inclusion.

If you are interested in obtaining information regarding any previous or upcoming events or for general questions or inquiries, please send an email to atlcommunityaffairs@fdic.gov.

Recent Publications

FDIC Press Releases

- FDIC Advisory Committee on Economic Inclusion ([PR-89-2023](#)) [View archived meetings here](#)
- FDIC Launches Public Campaign to Raise Awareness About Deposit Insurance ([PR-83-2023](#))

Financial Institution Letters

- Agencies Finalize Rule Updating and Modernizing the Community Reinvestment Act (CRA) ([FIL-61-2023](#))
- FDIC Office of the Ombudsman Updates Post-Examination Surveys ([FIL-59-2023](#))

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