Recent and Upcoming Regulatory Compliance Changes

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LAW/REGULATION	Impact	Rules Citation	Effective Date	Comment/Summary
FINAL RULES AND ASSOCIATED ACTIONS:				
CFPB – HMDA	Moderate	Final Rule 85 FR 28364 5/12/20	7/1/20, for increase in closed end threshold 1/1/22, for permanent open-end threshold	Finalizes aspects of the May 2019 proposed rule. It permanently raises the closed-end coverage threshold from 25 to 100 closed-end mortgage loans in each of the two preceding calendar years (exempting an additional 1,700 FIs from reporting compared to 2019). The final rule also clarifies that institutions have the option to report closed-end data collected in 2020 if they: (1) meet the definition of financial institution as of January 1, 2020 but are newly excluded on July 1, 2020 by the increase in the closed-end threshold, and (2) report closed-end data for the full calendar year. The final rule sets the permanent open-end threshold at 200 open-end lines of credit effective January 1, 2022, upon expiration of the temporary threshold of 500 open-end lines of credit. *As an aside, the regulatory thresholds for partial exemptions from reporting certain data fields under 1003.3(d) remain unchanged.*
GSEs - Regulation B/ECOA	Moderate	12/18/19 and 4/14/20	Optional Use 1/1/21 Mandatory 3/1/21	On January 29, 2020 the GSEs published their updated and interactive version of the redesigned URLA, here. The GSEs published the revised implementation timeline for the redesigned URLA and updated automated underwriting systems (AUS). Due to the coronavirus pandemic, on 4/14/2020, Fannie Mae and Freddie Mac extended the implementation timeline: the mandatory date is now March 1, 2021. The pipeline transition period ends on March 1, 2022, meaning the current URLA and the loan application submission files based on the legacy AUS specifications will no longer be accepted.
CFPB - Interpretive Rule on Authority to Resume Examinations Regarding the Military Lending Act	Minor	86 FR 32723 6/23/21	6/23/21	In a reversal of existing policy, the CFPB issued an interpretive rule stating that it has statutory authority to conduct Military Lending Act (MLA) examination activities and will resume MLA examinations at institutions it supervises. In 2018, the CFPB's leadership discontinued MLA-related examination activities, based on its stated belief that Congress did not specifically confer examination authority on the CFPB with respect to the MLA. The current CFPB leadership does not find those prior beliefs persuasive and the CFPB will now resume MLA-related examination activities.
FRB amends Reg D to delete limits on certain kinds of transfers and withdrawals that may be made each month from "savings deposits."	Minor	86 FR 8853 2/10/21	3/12/21	The Federal Reserve Board adopted as a final rule, without change, its 4/24/20, interim final rule amending its Regulation D (Reserve Requirements of Depository Institutions) to lower reserve requirement ratios on transaction accounts maintained at depository institutions to zero percent. Previously, Reg D limited the number of certain convenient kinds of transfers or withdrawals that an account holder may make from a "savings deposit" to not more than six per month; and similarly, also imposed requirements on depository institutions for either preventing transfers in excess of six transfer limit or for monitoring such accounts ex-post for violations of the limit. The interim final rule (and this final rule) deletes the six-transfer limit as well as the requirement to monitor for violations of the limit.
CFPB - Impact of the 2021 Juneteenth Holiday on Certain Closed-End Mortgage Requirements (Reg Z)	Minor	86 FR 44267 8/12/21	8/12/21	The bill signed into law by President Biden on 6/17/21, to create the Juneteenth National Independence Day resulted in a change under the Truth in Lending Act (TILA) and Regulation Z. The bill amended 5 U.S.C. 6103(a) to add "Juneteenth National Independence Day, June 19" as a specified legal public holiday. As a result, without further action, under the specific definition of "business day" in amended 5 U.S.C. 6103(a), Saturday 6/19/21, was not a business day. Although the federal government was closed on Friday 6/18/21, in observance of the new legal public holiday, under the specific definition of "business day" in amended 5 U.S.C. 6103(a), 6/18/21 was a business day. This interpretive rule clarifies that, if the relevant closed-end rescission or TRID time period began *on or before* 6/17/21, then 6/19/21, *was* considered a business day, but nothing prohibits creditors from providing longer time periods. Therefore, it would also be compliant for creditors to have considered 6/19/21, a federal holiday for purposes of these provisions. If the relevant time period began *after* 6/17/21 then June 19th *was* a federal holiday.
CFPB, Fed, and OCC-Annual Threshold Updates for 2021	Minor	1)85 FR 79394 2)85FR 79385 3)85 FR 83409	1/1/21	REGULATORY THRESHOLD: (1) TILA application is $58,300 (stayed the same); (2) exemption for paydays on HPMLs is $27,200 (stayed the same) (3) new HMDA asset size exemption threshold is $48 million (up from $47 million in 2020).

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CFPB Annual Threshold Updates for CARD, HOEPA, and QM	Minor	86 FR 60357 11/2/21	1/1/22	CARD Act: 1) No change to the minimum interest charge threshold requiring disclosure of charge above $1.00. 2) For applicable open-end consumer credit plans, $1 increase to the amount in 2021 for the safe harbor for a first violation penalty fee to $30 and the amount for a subsequent violation penalty fee to $40. HOEPA: The CFPB increased the current total loan amount threshold from $22,052 to $22,969, and the current points and fees threshold from $1,103 to $1,148. ATR/QM: 1) For a loan: >= $114,847, total points and fees (TPF) may not exceed 3 percent of the total loan amount 2) greater than $68,908 but less than $114,847, TPF may not exceed $3,445 3) greater than $22,969 but less than $68,908, TPF may not exceed 5 percent of the total loan amount 4) greater than $14,356 but less than $22,969, TPF may not exceed $1,148; and, 5) For a loan <$14,356, TPF may not exceed 8 percent of the total loan amount.
HUD - Implementation of the Fair Housing Act's Disparate Impact Standard	Moderate	85 FR 60288 9/24/20	Effective ~~10/26/20~~ Pending stay	This rule amends HUD's interpretation of the FHA's disparate impact standard to reflect the Supreme Court's 2015 ruling in *Texas Department of Housing and Community Affairs v. Inclusive Communities Project, Inc*. HUD's current rule basically requires the defendant to prove that a practice is necessary to meet a legitimate and legal objective. This rule would replace HUD's current discriminatory effects standard and would establish five key limitations, placing the burden onto the plaintiff in discriminatory impact claims to establish all of the following: (1) the challenged policy or practice is arbitrary, artificial, and unnecessary to achieve a legitimate objective; (2) the alleged disparity has a *disproportionally* (this word added in final rule) adverse effect on members of a protected class; (3) there is a robust direct 'causal link' (clarified in final rule to mean the policy or practice is the direct cause of the discriminatory effect) between the challenged policy or practice and the adverse effect on members of a protected class; (4) the alleged disparity caused by the policy or practice is significant; and, (5) there is a direct link between the injury asserted and the injurious conduct alleged. The final rule removes direct language from the proposal that discussed approaches of defense when claim is made based on the use of a "model… such as a risk assessment algorithm" including relief from liability if using a model that is an "industry standard," instead adding reference allowing defendants to demonstrate the challenged practice or policy was intended to predict the occurrence of an outcome among other details and there was not a less discriminatory option (without materially greater costs or burdens*). Prior to the effective date of the 2020 rule, the U.S. District Court for the District of Massachusetts issued a preliminary injunction in Massachusetts Fair Housing Center v. HUD, staying HUD's implementation and enforcement of the rule. Consequently, the 2020 Rule has not taken effect.*
		86 FR 33590 6/25/21	Comments due 8/24/21	After reconsidering the 2020 Rule as ordered by President Biden's Memorandum, dated 1/26/21, HUD is proposing to recodify its previously promulgated rule titled, "Implementation of the Fair Housing Act's Discriminatory Effects Standard" ("2013 Rule"), which, as of the date of publication of this Proposed Rule, remains in effect due to the preliminary injunction of the 2020 Rule. HUD now believes that the 2013 Rule is preferable to the 2020 Rule, remaining more consistent with judicial precedent construing the Fair Housing Act, including *Inclusive Communities*, as well as the Act's broad remedial purpose.
CFPB - Higher-Priced Mortgage Loan Escrow (Reg Z)/Small Creditor Exemption	Minor	85 FR 83411 12/22/20	1/1/21	"Small Creditor" threshold for purposes of the exemption to establish escrow accounts for HPMLs is $2.230 billion at 12/31/20 (increase from $2.202 billion). In effect since 3/31/16, this exemption applies to small creditors if: (1) the institution and its affiliates originated ≤2,000 loans secured by a first lien on a principal dwelling during the preceding calendar year (excluding those held in portfolio); (2) During the preceding calendar year, or, if the application for the transaction was received before April 1 of the current calendar year, during either of the two preceding calendar years, the creditor extended a covered transaction, secured by a first lien on a property that is located in a rural or underserved area; and, (3) Neither the creditor nor its affiliate maintains an escrow account for any extension of consumer credit secured by real property or a dwelling that the creditor or its affiliate currently services, other than those established for first-lien HPMLs for which applications were received on or after 4/1/10, and before 5/1/2016, or those established after consummation as an accommodation to distressed consumers to assist such consumers in avoiding default or foreclosure.

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CFPB - Higher-Priced Mortgage Loan Escrow (Reg Z)/Insured Institution Exemption	Minor	Final FR 86 9840 2/17/21	2/17/21	Following the July 2020 proposed rule, this final rule amends Reg Z, substantially as proposed to exempt certain insured institutions and CUs from the requirement to establish escrow accounts for certain higher-priced mortgage loans (HPMLs). New §1026.35(b)(2)(vi) exempts from the current HPML escrow requirement any loan made and secured by a first lien on the principal dwelling of a consumer if (1) the institution has assets of ≤$10 billion in assets (adjusted annually); (2) the institution and its affiliates originated ≤1,000 loans secured by a first lien on a principal dwelling during the preceding calendar year; and (3) certain of the existing HPML escrow exemption criteria are met which are: (a) During the preceding calendar year, or, if the application for the transaction was received before April 1 of the current calendar year, during either of the two preceding calendar years, the creditor extended a covered transaction, secured by a first lien on a property that is located in a rural or underserved area; and, (b) Neither the creditor nor its affiliate maintains an escrow account for any extension of consumer credit secured by real property or a dwelling that the creditor or its affiliate currently services, other than those established for first-lien HPMLs for which applications were received on or after 4/1/10, and before 120 days (was 90 days in proposal) after final rule publication in the federal register, or those established after consummation as an accommodation to distressed consumers to assist such consumers in avoiding default or foreclosure.
CFPB - Regulations to Implement the Fair Debt Collection Practices Act (FDCPA)	Moderate	85 FR 76734 11/30/20 86 FR 20334 4/19/21 Withdrawal of extension of effective date 86 FR 48918 9/1/21	Effective 11/30/21 Proposal to extend effective date to 1/29/22 Comments due 5/19/21 Effective date WILL REMAIN as 11/30/21	The final rule is significantly revised from the May 2019 proposal, overhauling, and expanding Reg F (12 CFR 1006). Importantly, the rule is not expanded to apply to first-party debt collectors who are not FDCPA debt collectors and does not clarify whether certain actions taken by a first-party debt collector would constitute an unfair, deceptive, or abusive practice. The rule: (1) Clarifies restrictions on the times and places a debt collector may communicate with a consumer. For purposes of determining the timing of an electronic communication, the communication occurs when the debt collector sends it, not when the consumer receives or views it. Clarifies a consumer need not use specific words to assert a time or place is inconvenient (must stop communications at place/time); (2) Clarifies that a consumer may restrict the type of media a debt collector communicates by, designating a particular medium, such as email, as one that cannot be used for debt collection communications; (3) Clarifies that a debt collector is presumed to violate the FDCPA's prohibition on repeated or continuous telephone calls if the debt collector places a call to a person >7 times within a seven-day period or within 7 days after engaging in a telephone conversation with the person. A debt collector is presumed to comply with that prohibition if the debt collector places a telephone call not in excess of either of those call frequencies. The rule also provides non-exhaustive lists of factors that may be used to rebut the presumption of compliance or of a violation; (4) Clarifies that newer technologies, such as emails and text messages, may be used in debt collection, with certain limitations (all emails and text messages must include a reasonable and simple method of opt out, and E-SIGN applies to disclosures required to be in writing). The rule provides that a debt collector may obtain a safe harbor from civil liability for an unintentional third-party disclosure if procedures detailed in §1006.6(d)(3-5) are followed; and (5) Clarifies that an attempt to communicate even if not successful is counted as an attempt, and defines a new term, 'limited-content message' (a voicemail that includes at a minimum: (i) A business name that does not indicate that the debt collector is in the debt collection business; (ii) A request that the consumer reply to the message; (iii) The name of persons whom the consumer can contact to reply; and (iv) A telephone number that the consumer can use to reply). Finally, the rule addresses other topics not limited to but for example: The definition and acquisition of location information; prohibited conduct (collecting unauthorized amounts, mandates covering postdated payment instruments, concealment of purpose, empty threats of judicial action, and restricted media such as postcards); false, deceptive, or misleading representation or means in connection with collection activities; disclosures required in initial and subsequent communications with a consumer (not including limited-content messages); and, ceasing collection efforts on disputed amounts (with certain caveats). The CFPB issued a proposal in April 2021 that would have extended the effective date to January 29, 2022. The CFPB has now determined that such an extension is unnecessary. The CFPB has published a formal notice in the Federal Register withdrawing the April 2021 proposal. In October the Bureau released several FAQs and guidance documents to help industry participants understand, implement, and comply with the Rule.

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		86 FR 5766 1/19/21 86 FR 20334 4/19/21 Withdrawal of extension of effective date 86 FR 48918 9/1/21	Effective 11/30/21 Proposal to extend effective date to 1/29/22 Comments due 5/19/21 Effective date WILL REMAIN as 11/30/21	Following the March 2020 supplemental proposed rule, this final rule clarifies the information that a debt collector must provide to a consumer at the outset of debt collection communications and provides an optional safe harbor model validation notice containing such information. It also addresses passive collections (i.e., the practice of furnishing information about a debt to a consumer reporting agency before communicating with the consumer about the debt) and the collection of debt that is beyond the statute of limitations (i.e., time-barred debt). For passive collections, (except for furnishing information about check writing history), the debt collector must either: (1) Speak to the consumer about the debt in person or by telephone, or (2) mail or send an electronic message to the consumer about the debt and wait a reasonable period of time (14 consecutive days is the established safe harbor) to receive a notice of undeliverability. The final rule provides a safe harbor for compliance with these disclosure requirements for debt collectors who use the model validation notice or certain variations of the notice. Additionally, the final rule interprets the definition of consumer under the FDCPA to include deceased natural persons and, relatedly, provides that, if a debt collector knows or should know that the consumer is deceased, the debt collector must provide that information to a person who is authorized to act on behalf of the deceased consumer's estate. Regarding time barred debt, the final rule prohibits a debt collector from bringing or threatening to bring a legal action against a consumer to collect a time-barred debt. This is different from the proposal which had originally included a clause "only if the debt collector knew or should have known the debt was time barred" and instead finalizes a strict liability standard (although prohibitions do not apply to proofs of claim filed in connection with a bankruptcy proceeding). However, the Bureau is not finalizing the proposed time-barred debt disclosure requirements although clarifies that any related information to time-barred debt that are specifically required by 'applicable law' (not defined in rule) may be included on the model validation notice. The CFPB issued a proposal in April 2021 that would have extended the effective date to January 29, 2022. The CFPB has now determined that such an extension is unnecessary. The CFPB has published a formal notice in the Federal Register withdrawing the April 2021 proposal.
CFPB - Technical Specifications for Credit Card Agreement and Data Submissions Required Under TILA and the CARD Act (Regulation Z)	Minor	86 FR 46953 8/23/21	8/23/21	Certain credit card issuers (issuers) must regularly submit card agreements and data to the Bureau. The Bureau is issuing new technical specifications for complying with those requirements. Issuers will make the submissions through the Bureau's Collect website (Collect) instead of by email. The technical specifications include registration information and the URL for the website at which issuers can submit the required information. Reg Z §1026.58 requires issuers to provide agreements to the Bureau through Collect, starting with the fourth quarter of calendar year submissions 2021 that are due on 1/31/22. Issuers who do not already use Collect must register for Collect by 11/1/21. This same process will be used for the annual submission of college credit card marketing agreements required under Reg Z §1026.57 starting with agreements for calendar year 2021 that are due on 3/31/22. Lastly, TILA §136(b) requires that a sample of Terms of Credit Card Plans (TCCP) Survey respondents include the 25 largest issuers and no less than 125 additional FIs. Generally, if selected, the Bureau sends an email to each issuer requesting that it complete the TCCP Survey. Documents to comply with the new technical specifications are available here.
CFPB - Application of Certain Provisions in the TRID Rule and TILA's Right of Rescission Rules in Light of the COVID-19 Pandemic	Minor	Interpretive Rule 85 FR 26319 5/4/20	Effective 5/4/20	This interpretive rule clarifies the application of certain provisions in the TILA-RESPA Integrated Disclosure (TRID) Rule and Regulation Z's right of rescission rules in light of the COVID-19 pandemic. The CFPB concluded that if a consumer determines that their need to obtain funds due to the COVID-19 pandemic necessitates consummating the transaction before the end of the TRID Rule waiting periods or must be met before the end of the Rescission Rules waiting period, then the consumer has a bona fide personal financial emergency. The CFBP also concluded that the COVID-19 pandemic is a "changed circumstance" for purposes of certain TRID Rule provisions (including revised estimates in good faith).

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FINAL RULES AND ASSOCIATED ACTIONS:				
CFPB – Payday Loans, Vehicle Title and Certain High-Cost Installment Loans (Deposit Advance Products and longer-term loans with balloon payments)	Moderate	82 FR 54472 11/17/17	Eff 1/16/18 Mandatory compliance for payment provisions is 8/19/19* 6/13/22*	Finalizes the proposed rule which governs banks, credit unions, nonbanks, and their service providers. Open-end and closed-end covered loans are (1) short-term loans (≤45-days) and (2) longer-term balloon-payment loans (defined as payment that is twice as large as any other payment). Certain provisions apply to a third type of loan, with terms >45-days where the cost of credit exceeds 36% APR *and* have a leveraged payments mechanism where the lender can initiate transfers from the consumer's account on its own. Prohibits lenders from attempting to withdraw payment from a consumer's account after its second consecutive attempt has failed for insufficient funds. Also imposes new disclosure requirements. **The compliance date was stayed pursuant to a court order issued in Community Financial Services Association v. CFPB, No. 1:18-cv-00295 (W.D. Tex. Nov. 6, 2018)." On 8/31/21, the court ruled in support of the CFPB, however it granted the industry 286 days to come into compliance with the rule. On 9/9/21, the two trade groups challenging the 2017 Rule filed an appeal to extend the stay, which on 9/30/21 was denied by the TX federal court. The trade groups appealed to the Fifth Circuit whom on 10/14/21 issued a stay to again postpone the 6/13/22 compliance date.*
CFPB - A new category of seasoned qualified mortgages	Moderate	85 FR 86402 12/29/20	Effective 3/1/21	Following the August 2020 proposal, this final rule is issued largely as proposed; however, the final rule differs from the proposal by adding a new exception to the portfolio requirement that allows loans to be transferred once during the seasoning period, excluding high-cost mortgages as defined in 12 CFR 1026.32(a), and applying the same consider and verify requirements that will apply to General QM loans. The rule defines Seasoned QMs as first-lien, fixed-rate transactions (regular, substantially equal periodic payments that are fully amortizing, no balloon payments, and ≤30 years) that have met certain performance requirements over a seasoning period of at least 36 months, are held in portfolio until the end of the seasoning period by the originating creditor or first purchaser, comply with general restrictions on product features and points and fees, and meet certain underwriting requirements. To be considered seasoned, the covered transaction must have no more than two delinquencies of 30 or more days and no delinquencies of 60 or more days at the end of the seasoning period, with some exceptions. Creditors can, however, generally accept deficient payments, within a payment tolerance of $50, on up to three occasions during the seasoning period without triggering a delinquency for purposes of this final rule. Failure to make full contractual payments does not disqualify a loan from eligibility to become a Seasoned QM if the consumer is in a temporary payment accommodation extended in connection with a disaster or pandemic-related national emergency, if certain conditions are met. However, time spent in such a temporary accommodation does not count towards the 36-month seasoning period, and the seasoning period can only resume after the temporary accommodation if any delinquency is cured either pursuant to the loan's original terms or through a qualifying change as defined in this final rule. The final rule defines a qualifying change as an agreement entered into during or after a temporary payment accommodation extended in connection with a disaster or pandemic-related national emergency that ends any preexisting delinquency and meets certain other conditions to ensure the loan remains affordable (such as a restriction on increasing the amount of interest charged over the full term of the loan as a result of the agreement). Only loans resulting from applications received by creditors on or after the effective date will be eligible to become seasoned QM loans.

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CFPB – extension of the qualified mortgage (QM) provision known as the GSE Patch and amendment to the General QM loan definition	Moderate	85 FR 86308 12/29/20	Effective 3/1/21 Mandatory 7/1/21 (possibly extended, see below)	Final Rule replaces the current requirement for General QM loans that the consumer's debt-to-income ratio (DTI) not exceed 43% with a limit based on the loan's pricing. Another current category of mortgage loan afforded QM status are loans that meet the standards of the Government Sponsored Enterprises (GSEs). Most mortgage loans are QMs pursuant to this provision, also known as "the Patch." However, the Patch (as well as existing General QM) will expire on 7/1/21. Under this Rule, a loan will continue to receive a conclusive presumption of ability to repay (ATR) if the APR is less than average prime offer rate (APOR) for a comparable transaction by 1.5 (first lien) or 3.5 (junior lien) percentage points as of the date the interest rate is set. A loan receives a rebuttable presumption for ATR if the APR exceeds the APOR for a comparable transaction by 1.5 percentage points but by less than 2.25 percentage points. Safe harbor or rebuttable presumption aside, the new General QM requires that the APR on the loan may not exceed APOR for a comparable transaction by: for a first lien transaction of $110,260 or more, 2.25 or more % points; for a first lien transaction of $66,156 or more and less than $110,260, 3.5 or more % points; for a first lien transaction of less than $66,156, 6.5 or more % points; for a first lien transaction secured by a manufactured home of less than $110,260, 6.5 or more % points; for a junior lien transaction of $66,156 or more, 3.5 or more % points; for a junior lien transaction of less than $66,156, 6.5 or more % points. All the dollar amounts are indexed for inflation. In addition, this rule: 1) Provides higher pricing thresholds for loans with smaller loan amounts, for certain manufactured housing loans, and for subordinate-lien transactions; 2) Retains the General QM loan definition's existing product-feature and underwriting requirements and limits on points and fees; and 3) Requires lenders to consider a consumer's DTI ratio or residual income (in accordance with calculations under 1026.43(c)(7) of the ATR rule), income or assets other than the value of the dwelling and debts, and removes appendix Q. It provides more flexible options for creditors to verify income or assets other than the value of the dwelling and the consumer's debts for QM loans including a safe harbor for using specific manuals cited in the final rule (incl. Freddie/Fannie/FHA/VA/USDA). If a manual used by a creditor is revised, the safe harbor still applies as long as the revised manual is substantially similar. For ARM loans, the creditor will be required to calculate the APR based on the highest interest rate that can apply during the five-year period from the due date of the first scheduled payment on the loan. As proposed, the final rule adds a Commentary provision to address unidentified funds such as that a creditor would not meet the verification requirements when it observes an unidentified $5,000 deposit in the consumer's account but fails to take any measures to confirm or lacks any basis to conclude that the deposit represents the consumer's personal income. The final rule does not change the points and fees limits, or the items that are included in points and fees. The final rules do not alter the existing separate QMs for loans that are defined as a QM by FHA, VA, or USDA.
		86 FR 22844 4/30/21	Effective 6/30/21	The Bureau has issued a final rule to delay the mandatory compliance date of the General QM Final Rule. The rule amends comments 43-2 and 43(e)(4)-2 and -3 to reflect an extension of the mandatory compliance date of the General QM Final Rule by changing the date "July 1, 2021" where it appears in those comments to "October 1, 2022." It also adds new comment 43(e)(2)-1 to clarify the General QM loan definitions available to creditors for applications received on or after March 1, 2021, but prior to October 1, 2022. Creditors have the option of complying with either the revised price-based General QM loan definition or the DTI-based General QM loan definition in effect prior to 3/1/21. Also, per the rule, the Temporary GSE QM loan definition will not expire until the earlier of 10/1/22 or the date the applicable GSE exits Federal conservatorship. In January, the GSE's Preferred Stock Purchase Agreements (PSPAs) with the Dept. of Treasury regarding Fannie Mae and Freddie Mac were amended. Pursuant to the amendments, as of 7/1/21 Fannie and Freddie could only purchase new general QM loans (under new general QM definition). On 4/8/21, Fannie issued LL 2021-09 and Freddie issued Bulletin 2021-13, to provide for the purchase of new general QM loans, and not the 43% DTI ratio QM or GSE Patch QM loans, for applications received on or after 7/1/21. As a practical matter, many lenders may no longer originate 43% DTI ratio QM loans or GSE Patch QM loans for applications received on or 7/1/21.

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CFPB - Mortgage Loan Loss Mitigation Under RESPA, based on COVID-19	Moderate	Interim Final Rule 85 FR 39055 6/30/20	Effective 7/1/20 Comments due 8/14/20	The CFPB issued this IFR to amend RESPA's Reg X to temporarily permit mortgage servicers to offer certain loss mitigation options based on the evaluation of an incomplete loss mitigation application. Eligible loss mitigation options, among other things, must permit borrowers to delay paying certain amounts until the mortgage loan is refinanced, the property is sold, the loan ends, or, for a mortgage insured by the FHA, the mortgage insurance terminates. These amounts include, without limitation, all P&I payments forborne through payment forbearance programs made available to borrowers experiencing financial hardships due, directly or indirectly, to the COVID-19 emergency, including a payment forbearance program offered pursuant to section 4022 of the CARES Act. These amounts also include P&I payments that are due and unpaid by borrowers experiencing financial hardships due, directly, or indirectly, to the COVID-19 emergency. Additionally, for eligibility, any amounts that the borrower may delay paying through the loss mitigation option may not accrue interest; the servicer may not charge any fee in connection with the loss mitigation option; and the servicer will waive all existing late charges, penalties, stop payment fees, or similar charges promptly upon the borrower's acceptance of the loss mitigation option; and, the borrower's acceptance of the loss mitigation offer must resolve any prior delinquency. The IFR also excludes servicers from certain regulatory requirements if a borrower accepts an option offered pursuant to the new exception; specifically, the servicer is not to comply with the Reg X section 1024.41(b)(1) or (2) requirements regarding the completion of a loss mitigation application and sending acknowledgment letters. However, per the Bureaus analysis commentary to the IFR, if a borrower who accepts a loss mitigation option offered pursuant to the temporary exception later submits a new loss mitigation application, the servicer must comply with Reg X §1024.41(b)(1) and (2) requirements.
CFPB issues 2021 Mortgage Servicing COVID-19 Rule	Major for large servicers	Final 86 FR 34848 6/30/21	Effective 8/31/21	As proposed, the final Rule only applies to a mortgage loan secured by a borrower's principal residence and does not apply to reverse mortgages. Small servicers, as defined in the general mortgage servicing rules, are generally not subject to the new requirements. The Rule includes temporary provisions as simplified here: (1) from August 31, 2021 through December 31, 2021, unless an exception applies, before referring certain accounts (which became 120+-day delinquent on or after 3/1/20), for foreclosure the servicer must make sure at least one of the temporary procedural safeguards has been met (procedural safeguards include that the borrower was evaluated based on a complete loss mitigation application and existing foreclosure protection conditions are met, the property is abandoned, or the borrower is unresponsive to servicer outreach), (2) permits offering a streamlined loss mitigation option based on an evaluation of an incomplete loss mitigation application related to a COVID-19 hardship (to qualify the loan modification must not extend the loan term >40 years from the date of the modification, not increase the monthly P&I payment that was required prior to the modification, not accrue interest on deferred amounts, the program must be available to borrowers with COVID-19-related hardships, must end any preexisting delinquency, and must not include certain fees such as late fees, penalties, or stop payment fees), (3) requires if a short-term payment forbearance program was offered based on the evaluation of an incomplete application, then, ≥30 days before the end of the short-term payment forbearance program, the servicer must contact the borrower to determine if the borrower wants to complete their loss mitigation application and proceed with a full loss mitigation evaluation, and (4) adds a requirement for servicers to inform borrowers of forbearance or loss mitigation options during live contact calls (only applies until 10/1/22).

LAW/REGULATION	Impact	Rules Citation	Effective Date	Comment/Summary
FINAL RULES AND ASSOCIATED ACTIONS:				
CFPB: LIBOR Transition Rule (Reg Z)	Moderate	86 FR 69716 12/8/21	Effective 4/1/22 Mandatory 10/1/22	Following its June 2020 proposal, the Bureau has issued a final rule that amends Regulation Z in order to address the discontinuation of LIBOR. The rule addresses several substantial issues for open-end credit: (1) to permit creditors for HELOCs and card issuers to transition existing accounts that use LIBOR to a replacement index on or after 4/1/22 (before LIBOR becomes unavailable), if certain conditions are met such as the LIBOR index and the replacement index value (w/ margin) in effect on 10/18/21 will produce an APR substantially similar to the rate calculated using LIBOR in effect on 10/18/21 that applied to the variable rate immediately prior to the replacement of the LIBOR index used under the plan; (2) clarifies that Prime Rate and certain spread-adjusted indices based on SOFR as recommended by the ARRC have historical fluctuations that are substantially similar to those of certain USD LIBOR indices (though creditors are not limited to these); (3) for HELOCs and credit cards a creditor must provide a change-in-terms notice disclosing the replacement index for LIBOR and any adjusted margin that is permitted under *even if the margin is reduced*. Prior to 10/1/22, a creditor has the option of disclosing a reduced margin in the change-in-terms notice that discloses the replacement index for LIBOR as permitted; and (4) adds an exception from the rate reevaluation provisions applicable to credit card accounts if the new index and margin results in a rate increase. – The proposal addresses one substantial issue for closed end credit which is to add an illustrative example to identify the SOFR-based spread-adjusted replacement indices recommended by the ARRC as an example of a "comparable index" for the LIBOR indices that they are intended to replace. In addition to this rule, the Bureau has issued FAQs to address other LIBOR transition topics and regulatory questions under the existing rule. **NOTE 1: On 11/6/20 an Interagency Statement was published encouraging prompt transition from LIBOR and reiterating banks may use any reference rate they determine to be appropriate; also discusses the importance of fallback language. On 11/30/20 an Interagency Statement was released encouraging FIs to cease entering into new contracts that use USD LIBOR as a reference rate as soon as practicable and in any event by 12/31/21. NOTE 2: On 10/20/21 an Interagency Statement (including the NCUA) was published that reminds FIs of the expectations that supervised FIs continue to progress toward an orderly transition away from LIBOR and that includes clarification regarding new LIBOR contracts, considerations when assessing appropriateness of alternative reference rates, and expectations for fallback language.*
LAW/REGULATION	**Impact**	**Rules Citation**	**Effective Date**	**Comment/Summary**
PROPOSED RULES & GUIDANCE (not associated with a Final Rule):				
FCC – Proposes amendments to TCPA regulations	TBD	Proposed 85 FR 64091 10/9/20	Comments due 10/26/20	As it could affect financial institutions (FIs): Previously the FCC exempted calls made by FIs (related to time sensitive fraud/emergency) subject to certain conditions (Declaratory Ruling and Order, October 9, 2015). The exemption's conditions include limitations on the class of calling parties (financial institutions), the class of called parties (customers of the financial institution), and the number of calls (no more than three calls per event over a three-day period for each affected account). The Commission seeks comment on these views and whether the exemption remains in the public interest.
CFPB - RFI on the ECOA and Reg. B	TBD	RFI 85 FR 46600 8/3/20	Comments due ~~10/2/20~~ Extended to 12/1/20	Seeks comments to identify opportunities to prevent credit discrimination, encourage responsible innovation, promote fair, equitable, and nondiscriminatory access to credit, address potential regulatory uncertainty, and develop viable solutions to compliance challenges under the ECOA and Reg B. In particular the Bureau seeks comment on Reg B's interpretation of disparate impact, use of limited language proficiency (LEP) products or services, use of special purpose credit programs, affirmative advertising to disadvantaged groups, artificial intelligence/machine learning, and other topics. On 12/21/20 the Bureau issued an advisory opinion to address regulatory uncertainty in Reg B as it applies to certain aspects of special purpose credit programs (SPCPs). Through stakeholder feedback received in response to the Bureau's RFI, the Bureau learned that stakeholders sought such additional guidance to help them develop compliant SPCPs. On 1/13/21 the Bureau published a Statement Regarding the Provision of Financial Products and Services to Consumers with Limited English Proficiency (LEP). The Statement is divided into two sections: one contains "guiding principles for serving LEP consumers" and the second contains "guidelines for developing compliance solutions when serving LEP consumers." Key considerations relate to language, product, and service selection, language preference collection and tracking, and translated documents.

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PROPOSED RULES & GUIDANCE (not associated with a Final Rule):				
CFPB Issues ANPR to solicit information relating to PACE financing	Moderate, but isolated	Proposed 84 FR 8479 3/8/19	Comment due 5/7/19	Solicits information pursuant to EGRRCPA §307 on residential Property Assessed Clean Energy (PACE) financing, which must fulfill the purposes of TILA's ability-to-repay (ATR) requirements for residential mortgage loans, and apply TILA's civil liability provision for ATR violations for PACE financing. Solicits information to better understand the PACE financing market and the unique nature of PACE financing as it relates to the following categories: (1) Written materials (current samples) associated with PACE transactions; (2) current standards and practices in the PACE origination process; (3) civil liability under TILA for ATR violations in connection with PACE financing, as well as rescission, borrower delinquency and default; (4) PACE financing features that are unique and how they can be addressed; and (5) potential implications of regulating PACE financing under TILA. PACE financing is defined as "financing to cover the costs of home improvements that results in a tax assessment on the real property of the consumer."
Interagency RFI on FIs' Use of Artificial Intelligence, Including Machine Learning	TBD	86 FR 16837 3/31/21 86 FR 27960 5/24/21	Comments due ~~6/1/21~~ Extended to 7/1/21	The FRB, CFPB, FDIC, NCUA, and OCC (agencies) are gathering information and comments to understand FIs' and respondents' views on the use of artificial intelligence (AI), including machine learning (ML) by FIs in their provision of services to customers and for other business or operational purposes; appropriate governance, risk management, and controls over AI; and any challenges in developing, adopting, and managing AI. The Appendix of this RFI includes a non-comprehensive list of laws and other agency issuances that may be relevant to the use of AI approaches by agency-supervised institutions including the GBLA, FCRA, ECOA, FHA and exam manuals. Questions posed address such topics as overfitting (i.e., when an algorithm "learns" from idiosyncratic patterns in the training data that are not representative of the population as a whole), explainability, and fair lending. *Comment period extended from 6/1/21 to 7/1/21 in concession to stakeholder requests.*
CFPB – rescinds seven policy statements issued in 2020	Min-Mod	Press Release 3/31/21	Effectively rescinded 4/1/21	In a press release the CFPB rescinds seven policy statements issued in 2020 that provided temporary flexibilities to FIs in consumer financial markets including mortgages, credit reporting, credit cards and prepaid cards. The rescinded statements temporarily provided FIs with flexibilities regarding certain regulatory filings or compliance with consumer laws and regulations. The move reflects the Bureau's commitment to consumer protection, and the fact that FIs have had a year to adapt their operations to the difficulties posed by the pandemic. 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.
CFPB: Small Business Lending Data Collection under the ECOA	Major	86 FR 56356 10/8/21	Comments due 1/6/22	As mandated by congress in the DFA, the CFPB has proposed a rule in which, if finalized will require lenders to report the amount and type of small business credit applied for and extended, demographic information about small business credit applicants, and key elements of the price of the credit offered. The proposed rule includes an activity-based exemption for all FIs that originate less than 25 "covered credit transactions" to "small businesses" in each of the two preceding calendar years. As proposed (1) a covered credit transaction is defined as one that meets the definition of business credit under Reg B, excluding trade credit, public utilities credit, securities credit, and incidental credit, as defined in Reg B; and (2) a small business if defined as one that had $5 million or less in gross annual revenue for its preceding fiscal year. Data points an FI is required to collect and/or report include a unique identifier, application date-method-recipient, credit type-purpose, amount applied for-approved-originated, action taken-&date, denial reasons, pricing, census tract, gross annual revenue, NAICS, number of workers/owners, time in business, minority or women owned business status, and ethnicity/race/sex. A data point chart is available here. Under the proposal, FIs would be required to collect data on a calendar-year basis and report data to the CFPB by June 1 of the following year. The CFPB proposes to provide technical instructions for the submission of data in a Filing Instructions Guide and related materials, and a final rule would become effective 90 days after publication in the Federal Register, but compliance would not be required until approx. 18 months after publication.
NCUA – proposes rule to amend requirement that a FCU must adopt as a part of their written overdraft policy	Minor	Proposed 86 FR 3876 1/15/21	Comments due 2/16/21	The proposed rule would modify the requirement that an FCU's written overdraft policy establish a time limit, not to exceed 45 calendar days, for a member to either deposit funds or obtain an approved loan from the FCU to cover each overdraft. The proposed rule would remove the 45-day limit and replace it with a requirement that the written policy must establish a specific time limit that is both reasonable and applicable to all members, for a member either to deposit funds or obtain an approved loan from the credit union to cover each overdraft. Consistent with U.S. generally accepted accounting principles, overdraft balances should generally be charged off when considered uncollectible. This change would also remedy a discrepancy between the current 45-day limit imposed on FCUs for curing an overdraft and 2005 interagency guidance on overdraft protection programs that suggests a maximum of 60 days before charge-off.

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PROPOSED RULES & GUIDANCE (not associated with a Final Rule):				
Interagency Proposal to Revise and Expand Q&As Regarding Flood Insurance	Minor	ANPR 85 FR 40442 7/6/20 85 FR 54946 9/3/20	Comments due 9/4/20 Extended to 11/3/20	The OCC, Board, FDIC, FCA, and NCUA propose to reorganize, revise, and expand the Interagency Q&As regarding flood insurance and solicits comments. The Agencies have prepared proposed new and revised guidance addressing the most frequently asked questions and answers about flood insurance. Significant topics addressed by the proposed revisions include the effect of major amendments to flood insurance laws with regard to the escrow of flood insurance premiums, the detached structure exemption, and force-placement procedures. The agencies announced they will issue separately another set of proposed Q&As relating to the private flood insurance rule adopted by the agencies in 2019, however the current proposed Q&As address some areas related to private flood insurance.
		Proposed 86 FR 14696 3/18/21	Comments due 5/17/21	As noted in the July 2020 Proposed Q&As, the OCC, Board, FDIC, FCA, and NCUA (Agencies) committed to separately issuing proposed Q&As relating to the private flood insurance rule. Accordingly, the Agencies have carefully considered, categorized, and consolidated private flood insurance Q&As to be broadly applicable to FIs and request comment on 24 proposed questions and answers, categorized in the three following sections: Mandatory Acceptance, Discretionary Acceptance, and General Compliance. The Agencies plan to publish a final document in the FR that consolidates these proposed private flood insurance Q&As and the July 2020 Proposed Q&As into one set of Interagency Q&As.
CFPB - rescinds "Statement of Policy Regarding Prohibition on Abusive Acts or Practices"	Min-Mod	86 FR 14808 3/19/21	Effectively rescinded 3/19/21	The Bureau rescinds the "Statement of Policy Regarding Prohibition on Abusive Acts or Practices" published at 85 FR 6733 on 2/6/20. Upon recent review of the statement, the CFPB (under new administration) found it was inconsistent with the Bureau's duty to enforce Congress's abusiveness standard. For reference, the 2020 statement applied the following principles: focus on citing or challenging conduct only when the harm to consumers outweighs the benefit (cost/benefit analysis); generally avoid "dual pleading" of abusiveness and unfairness or deception violations arising from all or nearly all the same facts; and, seek monetary relief such as civil penalties for abusiveness only upon lack of a good-faith effort to comply with the law (except the Bureau will continue to seek restitution for injured consumers regardless of whether a company acted in good faith or bad faith). The Bureau has concluded that the principles set forth in the statement have the opposite effect on preventing consumer harm, and thus is being rescinded immediately.
CFPB – Interpretive rule against discrimination based on sexual orientation and gender identity	Minor	Interpretive rule 86 FR 14363 3/16/21	Effective 3/16/21	The interpretive rule clarifies that, with respect to a credit transaction, the prohibition against sex discrimination in the ECOA and Regulation B, encompasses sexual orientation discrimination and gender identity discrimination, including discrimination based on actual or perceived nonconformity with sex-based or gender-based stereotypes and discrimination based on an applicant's associations.
CFPB – Notable items in the rule making agenda	TBD	Rule Making Agenda Spring 2021 Reginfo.gov Agency Rule List	Various	In its first published agenda under the Biden administration the Bureau lists two items in the final rule stage, three in the proposed rule stage, and two in the pre-rule stage. For the final rule stage, the Bureau expects to: (1) finalize the proposal to delay the effective date of the FDCPA/debt collection rules (listed above) from 11/30/21 to 1/29/22; and (2) to finalize its proposed amendments to Reg Z to address the discontinuation of LIBOR (states final rule is expected to be released in January 2022). For the proposed rule stage, the Bureau expects to: (1) to issue a NPRM related to the collection and reporting of certain data in connection with credit applications made by women- or minority-owned businesses and small businesses (expected Sept 2021); (2) issue an interagency NPRM to implement the amendments made by the Dodd-Frank Act to the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA) regarding appraisals concerning quality control standards for automated valuation models or AVMs (expected Dec 2021); and (3) to issue a final rule related to its previous NPRM (listed below) to address actions required of loan servicers working with borrowers affected by natural disasters or other emergencies (expected July 2021). In the pre-rule stage, the Bureau identified activity related to consumer access to financial information and property assessed clean energy funding (PACE loans). Notably the bureau is no longer considering plans publish proposed rules governing the collection of HMDA data and the disclosure of such.