

November 2, 2015

Regulatory Compliance E-News

Your source for guidance on regulatory issues and updates that may impact your organization.

Frequently Asked Compliance Question

Question

One of our customers can see via online banking that a pending preauthorization transaction has memo posted to his/her account. A merchant has put a hold on the account but has not fully processed the debit transaction. The customer claims that the transaction is not authorized, but was under the impression that he/she could not dispute the item until the charge actually posted to his/her account. Should we treat this as a Regulation E error resolution dispute even though it has not charged the account and may eventually drop off?

Short Answer

If the funds have not actually transferred from the account, then this is not considered a transaction that is covered under Regulation E. However once the funds have been transferred from the account, it would be subject to the error resolution rules. The institution has the option of voluntarily investigating the customer inquiry and may take steps to prevent the transaction from being processed...[click here to view the answer details](#).

If you have a question that you would like us to answer in an upcoming Regulatory Compliance E-News, contact [Stephen King, JD, AMLP](#), at 617-428-5448 or sking@wolfandco.com, or Brian Shea, CRCM, at 617-261-8133 or bshea@wolfandco.com.

Flood Insurance Regulatory Changes Chart New Course for Lenders



Now is a turbulent time for financial institutions when it comes to lending compliance. In 2015, new federal regulations were issued that implemented flood insurance provisions such as mandatory escrow, detached structure exemptions and force placement changes. In addition, the state of Massachusetts has also issued a regulation providing guidance with respect to state specific requirements.

To see Wolf & Company's analysis of these regulations, as well as best practices to ensure compliance, access our article [here](#).

CFPB Issues Final HMDA Expansion Rule

On October 15, 2015, the Consumer Financial Protection Bureau ("CFPB") finalized a rule to expand the data to be collected and reported under the Home Mortgage Disclosure Act ("HMDA"). The expansion implements practices mandated by the Dodd-Frank Act. New data fields will include, among others, pricing details, loan term, borrower debt-to-income ratio and interest rate.



Additional loan types that will become subject to data reporting will include reverse mortgages and open-end lines of credit, although dwelling-secured transactions that are made for commercial purposes will not be subject to HMDA data reporting as originally proposed.

Further, a new uniform loan volume threshold will exempt institutions that made fewer than twenty-five closed-end mortgages and 100 open-end lines of credit in each of the two preceding calendar years. Expanded data collection will become required starting in 2018 and must be reported starting in 2019.

The CFPB's press release can be found [here](#).

Fannie Mae, Freddie Mac Release Guidance on Integrated Disclosure Compliance



On October 6, 2015, Fannie Mae and Freddie Mac issued letters to lenders from whom they purchase mortgage loans, explaining their position regarding compliance with the TILA-RESPA Integrated Disclosures rule ("TRID").

The two government sponsored enterprises noted that they are aware of implementation issues and, as such, will not conduct routine post-purchase loan file reviews for technical compliance with TRID. Instead, monitoring will be conducted to ensure that proper TRID required forms are used, demonstrating that a good faith effort was made at compliance.

The enterprises announced that they will only exercise the right to require repurchase if the required forms are not used or if a practice impairs enforcement of the note or mortgage or results in assignee liability in violation of TRID. The enterprises will make an announcement before taking any different measures on this matter.

Fannie Mae's guidance can be found [here](#).

Freddie Mac's guidance can be found [here](#).

CFPB Identifies Initial Plans to Curtail Arbitration Agreements

On October 7, 2015, the CFPB released an outline of a proposed plan which would prohibit consumers from waiving their ability to participate in class action suits and would limit the ability of banks to use mandatory arbitration agreements in deposit account and credit card agreements.



The CFPB's aim is not to ban mandatory arbitration clauses, but to significantly reduce their prevalence by requiring the submission of consumer claim filings and written awards to the CFPB, which would monitor and possibly publish them.

The CFPB's press release can be found [here](#).

Federal Reserve Issues Letter on Merger or Conversion Examinations



On October 13, 2015, the Federal Reserve issued Consumer Affairs Letter 15-9. The letter provides explanation for the Federal Reserve's criteria when it comes to waiving or conducting examinations for institutions that are either seeking to become state member banks of the Federal Reserve, or are merging into such an entity where the surviving entity will be a state member bank.

The letter identifies the criteria under Regulation H that such institutions must meet as well, as additional safety and soundness criteria. The letter covers both safety and soundness and compliance examinations.

The Consumer Affairs Letter can be found [here](#).

Spanish Language Version of FFIEC BSA/AML Examination Manual Released

On October 14, 2015, the Federal Deposit Insurance Corporation ("FDIC") issued Financial Institution Letter ("FIL") 47-2015. The FIL announces the issuance of a Spanish language version of the Federal Financial Institution Examination Council ("FFIEC")'s Bank Secrecy Act ("BSA")/Anti-Money Laundering ("AML") Examination manual. The manual reflects revisions made to the English version in 2014.



The FIL can be found [here](#).

Important Regulatory Dates

2015

November 10 - Mandatory compliance date for Massachusetts institutions to utilize separate flood notice

December 31 - Sunset of Servicemembers Civil Relief Act ("SCRA") foreclosure protections that were extended from ninety days to one year following a period of active duty

2016

January 1 - Flood Escrow and other rule changes take effect

October 3 - Military Lending Act amendments become mandatory for most lending products

2017

October 3 - Military Lending Act amendments become mandatory for certain credit card products

Contact



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PDFs of the Regulatory Compliance E-News and featured questions with full detailed answers from 2015 can be found [here](#).

This information in this newsletter is based on our preliminary analysis of the regulatory language. It is communicated with the understanding that the Firm is not rendering legal services. If legal advice is required, the services of an attorney should be sought.

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