



# COMPLIANCE WEBINAR SERIES

January 31, 2017

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BSA

# Human Trafficking

- Seventeen Indicted For Their Roles In Trafficking Hundreds Of Thai Sex Slaves In The United States
  - All were members of an international sex trafficking organization that transported hundreds of female sex slaves from Thailand and trafficked them throughout the U.S.
  - Activity started as early as 2009 in at least ten U.S. cities, including Atlanta.
  - Victims were forced to work excessive hours and couldn't go out in public unless accompanied by a member of the criminal organization.

# Human Trafficking

- This case illustrates the extent to which this problem permeates our society, and sadly, there are probably many more similar situations yet to be uncovered.
- This presents an opportunity for you to train your front-line staff to be on the look out for signs of this, such as two people entering the branch that may not look like they belong with each other or who are together and yet clearly aren't interacting with one another, one of these individuals won't make eye contact or looks in poor physical health, or customers who routinely make cash deposits under the CTR reporting threshold.

# Human Trafficking

- National Human Trafficking Hotline: 1-888-373-7888
- <https://humantraffickinghotline.org>
- This organization reports that nearly 30,000 cases have been reported to it since December 2007.
- In Georgia, nearly 1,000 cases have been reported since December 2007, including 201 in 2016 alone, so the problem is accelerating.

# Cyber Threats Advisory - FinCEN 2016-A005

Advisory to Financial Institutions October 25, 2016 on Cyber-Events and Cyber-Enabled Crime

- Reporting cyber-enabled crime and events through SAR reporting
- Providing authorities with cyber-related information, such as IP addresses with timestamps, virtual wallet information and device identifiers.
- Collaborating between BSA/AML staff and in-house cyber-security staff.
- Sharing information through 314(b) channels with other institutions



# Cyber Threats Advisory – FinCEN 2016– A005

The advisory offers several definitions:

- **Cyber-Event:** An attempt to compromise or gain unauthorized electronic access to electronic systems, services, resources, or information.
- **Cyber-Enabled Crime:** Illegal activities (e.g., fraud, money laundering, identity theft) carried out or facilitated by electronic systems and devices, such as networks and computers.
- **Cyber-Related Information:** Information that describes technical details of electronic activity and behavior, such as IP addresses, timestamps, and Indicators of Compromise (IOCs). Cyber-related information also includes, but is not limited to, data regarding the digital footprint of individuals and their behavior.

# Cyber Threats Advisory – FinCEN 2016-A005

The Advisory also establishes mandatory SAR reporting of cyber-events:

- A financial institution is required to report a suspicious transaction conducted or attempted by, at, or through the institution that involves or aggregates to \$5,000 or more in funds or other assets.
- Cyber-events targeting financial institutions that could affect a transaction or series of transactions would be reportable as suspicious transactions because they are unauthorized, relevant to a possible violation of law or regulation, and regularly involve efforts to acquire funds through illegal activities.



# Cyber Threats Advisory – FinCEN 2016-A005

Example: Through a malware intrusion (a type of cyber-event), cybercriminals gain access to a bank's systems and information. Following its detection, the bank determines the cyber-event put \$500,000 of customer funds at risk, based on the systems and/or information targeted by the cyber-event. Accordingly, the bank reasonably suspects the intrusion was in part intended to enable the perpetrators to conduct unauthorized transactions using customers' funds.

# Cyber Threats Advisory – FinCEN 2016-A005

In this case, the bank must file a SAR because it has reason to suspect the cybercriminals, through the malware-intrusion, intended to conduct or could have conducted unauthorized transactions aggregating or involving at least \$5,000 in funds or assets. The bank should include all available information in the SAR relevant to the suspicious activity, including cyber-related information such as a description and signatures of the cyber-event, attack vectors, command-and-control nodes, etc.

# Cyber Threats Advisory – FinCEN 2016-A005

- The Advisory also discusses voluntarily reporting of cyber-events that do not otherwise necessitate a SAR filing, such as a DDoS attack that affects the institution's website but doesn't affect customer accounts.
- FinCEN encourages the filing of all cyber-related information when an institution files a voluntary SAR.
- For additional information on reporting cyber-related information in SARs, please refer to these Frequently Asked Questions (FAQs) available on FinCEN's website.

# FinCEN technical corrections

- FinCEN is issuing this final rule to make a number of technical amendments. This final rule updates various sections of the regulations implementing the Bank Secrecy Act (“BSA”) by removing or replacing outdated references to obsolete BSA forms, removing references to outdated recordkeeping storage media, and replacing several other outdated terms and references.
- DATES: Effective November 4, 2016.

# FinCEN technical corrections

- Finally, this final rule replaces several other outdated terms or references where appropriate such as the reference to filing reports with the Commissioner of Internal Revenue (“IRS”). Effective July 1, 2011, all BSA reports are electronically filed with FinCEN, not the IRS.

# Polling Question #1

**Has your institution begun implementing elder abuse policies and procedures?**

- Yes**
- We've thought about it but have not taken action**
- No**
- Unsure**





# Elder Abuse

- This is an issue garnering increased attention from regulators, and for good reason.
- In 2015, over \$36.5 billion in loss nationwide, through a combination of exploitation, criminal fraud and caregiver abuse.
- Georgia and many other states are fighting back – Georgia Department of Human Services, Division of Aging Services Forensic Special Initiatives Unit

# Elder Abuse

## Considerations

- Training
  - Identification of elder abuse activity
- Monitoring
  - Review of reports to track potential activity
  - Escalation process
- Policy development
  - Power of Attorney coverage
  - SAR tracking

# BSA to do list

- Train front-line staff on identifying potential human trafficking behavior
- Contact your IT support team to discuss tracking of cyber events, and make sure they know to get in touch with BSA officer when something occurs
- Get ahead of the Elder Abuse issue



## Loans

# Top clarifications from the proposed amendments to TRID July 28, 2016

- Top clarifications from the proposed amendments to TRID July 28, 2016
  1. The provisions at 1026.3(h) that exclude the forgivable grant programs will be clarified that transfer taxes may be payable as part of the transactions without losing the eligibility for the partial exemption and to exclude recording fees from the 1-percent threshold. (pp 24-25)

# Top clarifications from the proposed amendments to TRID July 28, 2016

2. Clarification of comments 1026.19( e)(1)(vi)-2 and -4 on the Loan Estimate, for if the consumer can shop for a service, and if the charge is payable by the consumer, creditors must specifically identify the service unless, based on the best information reasonably available, the creditor knows the service is part of a package offered by a single service provider. Also clarified, the specific identification of each service in such a package is not required provided all such services are services for which the consumer is permitted to shop. (pp 47-48)



# Top clarifications from the proposed amendments to TRID July 28, 2016

3. Clarification of comments 1026.19( e)(3)(ii)-2 and 19.(e)3(iii) - 2 that if the creditor permits the consumer to shop but fails to provide the shopping list, or the shopping list does not comply with the requirements, those charges would be subject to zero tolerance. (pp 49-50)

# Top clarifications from the proposed amendments to TRID July 28, 2016

4. The question arose, can creditors issue informational only revised Loan Estimates when the reason for the revision was not on the list at 1026.19(e)(3)(iv)(A) through (F)? CFPB is amending comment 19(e)(3)(iv)-2 and adding comment 19(e)(iv)-4 to clarify that it is not prohibited for a creditor to issue revised disclosures for informational purposes even where the creditor is not resetting tolerances. And when sending out a revised LE for a changed circumstance, if any other charges are known to be different, then those charges should also be revised as well [new comment 1026.19(e)(3)(iv)-5]. (pp 58-59)

# Top clarifications from the proposed amendments to TRID July 28, 2016

5. When there are tolerance cures, and the government loan program does not allow a cash refund, CFPB is revising the example in comment 19(f)(2)(v)-1, 38-4, and 38(e)(2)(iii)(A)-3 to allow a creditor to disclose a principal curtailment and direct the consumer to the disclosure of a principal curtailment rather than a disclosure of a refund. (page 66, pp 104-105, page 112)

# Top clarifications from the proposed amendments to TRID July 28, 2016

6. If a creditor has performed its own estimate of the property value, revised comment 37(a)(7) clarifies the creditor must disclose its own estimate. (page 74)
7. After the consumer has indicated an intent to proceed, new comment 37(a)(13)-3 will clarify that the date and time at which the estimated closing costs expire would be left blank on revised Loan Estimates. (page 76)

# Top clarifications from the proposed amendments to TRID July 28, 2016

8. In a transaction where there is no seller, to disclose the value of the property, present comment 38(a)(3)(viii)-1 requires the creditor to disclose on the Closing Disclosure the value determined by the appraisal or valuation used to determine loan approval or, if none has been obtained, the estimated value of the property. In the latter case, the creditor may use the value provided by the consumer or if the creditor did an estimate for purposes of approving the credit transaction the creditor must disclose that estimate. (pp 106-107)

# Top clarifications from the proposed amendments to TRID July 28, 2016

9. The question of what amounts should be in the Loan Estimate column of the Calculating Cash to Close table on page 3 of the Closing Disclosure has been answered. New comment 38(e)-6 is proposed to state the amounts are the amounts disclosed in the most recent Loan Estimate, whether or not the amounts on the most recent Loan Estimate reflected updated amounts for informational purposes only or the amounts used for determining good faith (tolerances). (page 110)



# Top clarifications from the proposed amendments to TRID July 28, 2016

10. Taxes and other government fees should be disclosed as follows based on proposed amendments to 1026.38(g)(1) and comment 38(g)(1)-3: the total amount of fees for recording deed and the total amount of fees for recording security instruments must each be disclosed on the first line under the subheading “Taxes and Other Government Fees” before the columns described. The total amount of all recording fees (including but not limited to deed and security instrument) must be disclosed in the column(s). (page 115)

# Top clarifications from the proposed amendments to TRID July 28, 2016

11. For escrowed costs on page 4 of the Closing Disclosure – 11 months (actual number of payments made within one year of consummation for a loan with a long first payment period) or 12 months (based on the RESPA one year from first payment)? New proposed comment 38(I)(7)(i)(A)(5)-1 will say that either is correct. (pp 134-136)

# Top clarifications from the proposed amendments to TRID July 28, 2016

12. Although the actual interest-only payments for a construction loan will increase over the term of the construction financing as the amounts advanced increased, because the methods provided by Appendix D to estimate interest may be used to make disclosures, a technically correct and compliant answer to “Can this amount increase after closing?” is “NO.” Proposed new comment app. D-7v.A will allow a creditor to answer the question “YES” and further explain that the technically correct answer is “NO.” (pp 157-158)

# Top clarifications from the proposed amendments to TRID July 28, 2016

13. Construction costs are costs the consumer contracts, at or before closing, to pay in whole or in part with the loan proceeds. Because the creditor is making the loan to cover construction costs, proposed comment app.D-7.vii.A would explain the amount of construction costs is disclosed under the heading “Other” (Section H on page 2 of the Loan Estimate in the Closing Costs Details table) (pp 161-162)

# CFPB updates TRID Small Entity Guide

TILA-RESPA Integrated Disclosure rule

October 2016 4.0

Updates to incorporate guidance from existing webinars to add clarity on topics, including:

- Record retention requirements for the Closing Disclosure (Section 2.3)
- Completing the Loan Estimate and Closing Disclosure (Sections 5.3 and 10.4)

# CFPB updates TRID Small Entity Guide

- Formatting the Loan Estimate and Closing Disclosure (Sections 5.6, 5.7, 10.11, 13.3, and 13.4)
- Delivery requirements for the Loan Estimate and the special information booklet (Sections 6.5 and 15.7)
- Requirements upon receiving an application (Sections 6.7, 6.9, 6.10, and 6.11)
- Disclosing and determining good faith for services the borrower may shop (Sections 7.4, 7.6, 8.8)
- Disclosing seller-paid costs and providing seller disclosures (Sections 10.7, 11.5, 11.6, 11.7)

# CFPB updates TRID Small Entity Guide

- Providing revised Loan Estimates and corrected Closing Disclosures (Sections 12.3 and 12.6)
- Guidance on construction loans
- Providing special information booklet (Section 15.1, 15.6, and 15.7)
- The absence of a HUD-1 comparison chart in the Closing Disclosure (Section 10.12)

# CFPB updates TRID Small Entity Guide

- Additional guidance on providing revised Loan Estimates any time before the Closing Disclosure. (Section 8.1)
- Revisions to standardize the terminology for “revised Loan Estimates” and “corrected Closing Disclosures.”
- Revisions to move existing questions to place them next to other questions on related topics (Sections 6.8 and 8.1) and miscellaneous administrative changes.



# CFPB on URLA and Regulation B

- BUREAU OF CONSUMER FINANCIAL PROTECTION
- Status of New Uniform Residential Loan Application (URLA) and Collection of Expanded Home Mortgage Disclosure Act Information about Ethnicity and Race in 2017 under Regulation B

# CFPB on URLA and Regulation B

- Bureau staff has determined that the relevant language in the 2016 URLA is in compliance with regulatory provisions. A creditor's use of the 2016 URLA is not required under Regulation B. However, a creditor that uses the 2016 URLA without any modification that would violate § 1002.5(b) through (d) would act in compliance with § 1002.5(b) through (d). The issuance of this Bureau official approval has been duly authorized by the Director of the Bureau and provides the protection afforded under section 706(e) of ECOA.

# CFPB on URLA and Regulation B

- At any time from January 1, 2017, through December 31, 2017, a creditor may, at its option, permit applicants to self-identify using disaggregated ethnic and racial categories as instructed in appendix B to Regulation C, as amended by the 2015 HMDA final rule.

# CFPB on URLA and Regulation B

- A version of the URLA dated January 2004 is included in appendix B to Regulation B as a model form.
- This Bureau official approval is being issued separately from, and without amending, the official interpretations to Regulation B contained in Supplement I to Regulation B. The Bureau will consider whether to address the treatment of outdated versions of the URLA in appendix B and Supplement I to Regulation B at a later date.

# 2015 HMDA Data Available

- The Federal Financial Institutions Examination Council (FFIEC) today announced the availability of data on mortgage lending transactions at 6,913 U.S. financial institutions covered by the Home Mortgage Disclosure Act (HMDA).

# 2015 HMDA Data Available

- The 2015 HMDA data use the census tract delineations, population, and housing characteristic data from the 2010 Census and the combined 2006–2010 American Community Surveys, as has been the case since 2012, when these delineations and data were first used. In addition, the data reflect metropolitan statistical area (MSA) definitions released by the Office of Management and Budget in 2013 that became effective for HMDA purposes in 2014.

# 2015 HMDA Data Available

## Observations from the 2015 Data

- For 2015, the number of reporting institutions declined about 2.5% from the previous year to 6,913.
- The data on the incidence of higher-priced lending shows that nearly 6.0% of first-lien loans originated in 2015 have APRs that exceed the loan price reporting thresholds, down from nearly 8.0% in 2014.

# FHFA Announces Increase in Maximum Conforming Loan Limits

- On November 23, 2016 the Federal Housing Finance Agency (FHFA) announced that the maximum conforming loan limits for mortgages acquired by Fannie Mae and Freddie Mac in 2017 will increase. In most of the country, the 2017 maximum loan limit for one-unit properties will be \$424,100, an increase from \$417,000. This will be the first increase in the baseline loan limit since 2006. In higher-cost areas, higher loan limits will be in effect.



# FHFA Announces Increase in Maximum Conforming Loan Limits

SECTION 1026.35—Requirements for Higher-Priced Mortgage Loans 35(a) Definitions

Paragraph 35(a)(1)

3. Threshold for “jumbo” loans. Section 1026.35(a)(1)(ii) provides a separate threshold for determining whether a transaction is a higher-priced mortgage loan subject to section 1026.35 when the principal balance exceeds the limit in effect as of the date the transaction's rate is set for the maximum principal obligation eligible for purchase by Freddie Mac (a “jumbo” loan).

# Truth-in-Lending Consumer Threshold

- The CPI-W reported on May 17, 2016 reflects a 0.8 percent increase in the CPI-W from April 2015 to April 2016. Because the CPI-W decreased from April 2014 to April 2015, the Board and the Bureau are calculating the threshold based on the amount that would have resulted had this decrease been taken into account, which is \$54,200. A 0.8 percent increase in the CPI-W applied to \$54,200 results in \$54,600, which is the same threshold amount for 2016. Thus, the exemption threshold amount that will be in effect for 2017 remains at \$54,600.

# Method to Adjust Small Loan Appraisal Threshold

- Agencies Issue Final Rule on Method to Adjust the Threshold for Exempting Small Loans from Special Appraisal Requirements and Announce 2017 Threshold

# Method to Adjust Small Loan Appraisal Threshold

- The Consumer Financial Protection Bureau (CFPB), Federal Reserve Board, and Office of the Comptroller of the Currency (OCC) today issued a final rule detailing the method that will be used to make annual inflation adjustments to the threshold for exempting small loans from special appraisal requirements. The final rule also applies the calculation method to the exemption threshold for 2017. The threshold will remain at \$25,500, based on the CPI-Win effect on June 1, 2016.

# Polling Question #2

**How much additional help from outside resources do you feel you need to adequately prepare for the upcoming HMDA changes?**

- A lot of additional help**
- Some additional help**
- No additional help**
- Unsure**



# 2017 HMDA Data collection and reporting

- HMDA data collected in 2017, filers will submit their HMDA data to the Consumer Financial Protection Bureau (CFPB) using a web interface referred to as the HMDA Platform. HMDA filers will interact directly with the HMDA Platform to file their HMDA data. *The Data Entry Software currently provided by the FFIEC (DES) will no longer be available as a method of data entry or data submission.*

# 2017 HMDA Data collection and reporting

- Some financial institutions, typically those with small volumes of reported loans, that currently manually enter each loan into the DES for submission, will need a software solution to create an electronic file that can be submitted to the new HMDA Platform.
- Many solutions exist to create the electronic file. For example:

# 2017 HMDA Data collection and reporting

- A financial institution's current Loan Origination Software (LOS) may meet this need.
- Software commonly available on desktop computers such as Microsoft Access or Excel may also be used for data entry and formatting.



# 2017 HMDA Data collection and reporting

- In addition, the CFPB has published a Microsoft Excel HMDA loan/application register (LAR) data entry formatting tool to help filers enter and format their HMDA data into a pipe delimited text file needed to submit the data to the CFPB's HMDA Platform.
- <http://www.consumerfinance.gov/data-research/hmda/lar-formatting-tool>

# Loans to do list

- For the TRID clarifications that will impact you – modify your procedures
- If you utilize the TRID small entity guide, download the newest version, but retain the former version as documentation/evidence of items upon which you relied

# Loans to do list

- Determine whether or for which loans you would use the new URLA. If you are going to use it, provide guidance on how to complete the form and when it would be inappropriate to use the form
- Determine when you will begin analyzing your HMDA data
- Update higher-priced thresholds in your loan origination software or manual procedures



# UDAAP

# TitleMax Finance Debt Collection

CONSUMER FINANCIAL PROTECTION BUREAU  
ADMINISTRATIVE PROCEEDING

TMX Finance LLC (d/b/a TitleMax)

Respondent has consented to the issuance of this Consent Order by the Bureau

# TitleMax Finance Debt Collection

- Respondent is a specialty-finance company that originates and services automobile-title loans through its affiliates operating out of approximately 1,300 brick-and-mortar storefronts located in 18 states.
- In all but three states, a consumer pawns or pledges the title to his or her car in exchange for a 30-day loan, pawn, or pledge. Consumers pay a pawnshop charge, the equivalent of interest, or, for Tennessee, a customary fee for the use of proceeds over the transaction term.

# TitleMax Finance Debt Collection

- To qualify for the pawn or pledge, the consumer *must* bring in a lien-free vehicle that the consumer wishes to use as collateral and the title to that vehicle.
- After the consumer identifies his or her requested payback period or target monthly payment, the store employee shows the consumer a multi-month Voluntary Payback Guide (the “Payback Guide”) and adjusts the length based on the consumer’s requested payback period or target monthly payment.

# TitleMax Finance Debt Collection

## Findings and Conclusions as to Unfair Debt-Collection Practices

- From at least 2011 until December 2015, if a consumer failed to make a timely payment and did not respond to communications from store employees, Respondent's policies allowed employees to conduct "in-person visits" to the consumer's home and to the consumer's references, and employees did conduct such visits.



# TitleMax Finance Debt Collection

- Respondents' employees conducted in-person visits to consumers' homes, to consumers' references, and to consumers' places of employment in all states in which it operates.
- During in-person visits, Respondent's employees disclosed the existence of consumers' past-due debts to third parties, including neighbors, roommates, family members, supervisors, and co-workers.

# TitleMax Finance Debt Collection

- Respondent is restricted from disclosing the existence of the consumer's debt to any person other than the consumer, including references, landlords, or supervisors, in connection with collecting or attempting to collect a debt, except with the prior express consent of the consumer.
- Respondent must pay a civil money penalty of \$9.0 million to the Bureau.

# Debt Collection - Navy Credit Union

## CFPB Orders Navy Federal Credit Union to Pay \$28.5 Million for Improper Debt Collection Actions

- Navy Federal is the largest credit union in the U.S., with more than \$73.0 billion in assets as of December 2015.

# Debt Collection - Navy Credit Union

- The credit union sent letters to members threatening to take legal action unless they made a payment, but seldom took any such actions. CFPB found the credit union's message to consumers of "pay or be sued" was inaccurate about 97% of the time, even among consumers who did not make a payment in response to the letters. The credit union's representatives also called members with similar verbal threats of legal action. And the credit union threatened to garnish wages when it had no intention or authority to do so.

# Debt Collection - Navy Credit Union

- The credit union sent letters to dozens of service members threatening that the credit union would contact their commanding officers if they did not promptly make a payment.
- The credit union was not authorized and did not intend to contact the servicemembers' chains of command about the debts it was attempting to collect.

# Debt Collection - Navy Credit Union

- The credit union sent about 68,000 letters to members misrepresenting the credit consequences of falling behind on a Navy Federal loan. Many of the letters said that consumers would find it “difficult, if not impossible” to obtain additional credit because they were behind on their loan. But the credit union had no basis for that claim, as it did not review consumer credit files before sending the letters.

# Debt Collection - Navy Credit Union

- The credit union also misrepresented its influence on a consumer's credit rating, implying that it could raise or lower the rating or affect a consumer's access to credit. As a furnisher, the credit union could supply information to the credit reporting companies, but it could not determine a consumer's credit score.

# Debt Collection - Navy Credit Union

- The credit union froze electronic account access and disabled electronic services for about 700,000 accounts after consumers became delinquent on a Navy Federal credit product. This meant delinquency on a loan could shut down a consumer's debit card, ATM, and online access to the consumer's checking.



# CFPB on Production Incentives

## CFPB Compliance Bulletin 2016-03

- Detecting and Preventing Consumer Harm from Production Incentives
- Despite potential benefits, incentive programs pose risks to consumers, especially when they create an unrealistic high-pressure sales culture. When such programs aren't carefully and properly implemented and monitored, they create incentives for employees or service providers to pursue overly aggressive marketing, sales, servicing, or collections tactics.

# CFPB on Production Incentives

Specific examples of problems include:

- Sales goals may encourage employees, either directly or indirectly, to open accounts or enroll consumers in services without their knowledge or consent. Depending on the type of account, this may further result in, for example:
  - Improperly incurred fees;
  - Improper collections activities; and/or
  - Negative effects on consumer credit scores.

# CFPB on Production Incentives

- Sales benchmarks may encourage employees or service providers to market a product deceptively to consumers who may not benefit from or even qualify for it.
- Paying compensation based on the terms or conditions of transactions (such as interest rate) may encourage employees or service providers to overcharge consumers, to place them in less favorable products than they qualify for, or to sell them more credit or services than they had requested or needed.

# CFPB on Production Incentives

- Incentives played a role in at least one matter where consumers were deceived into opting in to overdraft services. The Bureau found that, as a result of incentives for hitting specific targets, a bank's telemarketing service provider had deceptively marketed overdraft services and enrolled certain bank consumers in those services without their consent.

# CFPB on Production Incentives

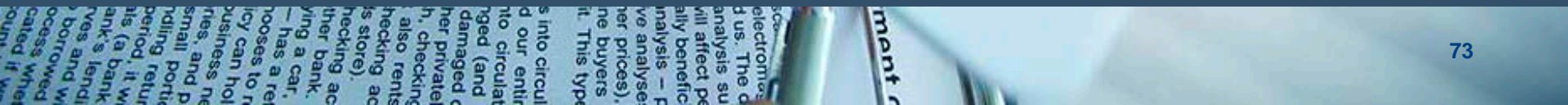
- The CFPB expects supervised entities that choose to utilize incentives to institute effective controls for the risks these programs may pose to consumers, including oversight of both employees and service providers involved in these programs.

# UDAAP to do list

- Talk to your debt collectors and evaluate whether they make in-person visits in their collection efforts. Determine whether that practice will continue.
- Test collection letters and practices for inappropriate language and assertions.
- If you have not already done so, look at the controls in place for incentive pay.



## Miscellaneous





# Polling Question #3

**Do you feel that you fully understand the fundamentals of the CFPB prepaid card exceptions?**

- Yes, I fully understand**
- Slightly, I could use more clarification**
- No**
- What are prepaid cards?**





# CFPB Prepaid Card Executive Summary

- On October 5, 2016, the Consumer Financial Protection Bureau (Bureau) issued a final rule (Prepaid Rule) amending Regulations E and Z to create comprehensive consumer protections for prepaid financial products.
- [https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/Prepaid\\_execsummary\\_v1\\_10052016.pdf](https://s3.amazonaws.com/files.consumerfinance.gov/f/documents/Prepaid_execsummary_v1_10052016.pdf)

# CFPB Prepaid Card Executive Summary

## Prepaid Accounts

- The Prepaid Rule adds the term “prepaid account” to the definition of “account” in Regulation E. Accounts that meet the Prepaid Rule’s definition of prepaid account are subject to various requirements under amended Regulation E. Payroll card accounts and government benefit accounts are prepaid accounts under the Prepaid Rule’s definition. Additionally, a prepaid account includes a product that is either of the following, unless a specific exclusion in the Prepaid Rule applies:

# CFPB Prepaid Card Executive Summary

- An account that is marketed or labeled as “prepaid” and is redeemable upon presentation at multiple, unaffiliated merchants for goods and services or usable at automated teller machines (ATMs); or
- An account that meets all of the following:
  - (1) Is issued on a prepaid basis in a specified amount or is capable of being loaded with funds after issuance;
  - (2) Whose primary function is to conduct transactions with multiple, unaffiliated merchants for goods or services, to conduct transactions at ATMs, or to conduct person-to-person (P2P) transfers; and
  - (3) Is not a checking account, a share draft account, or a negotiable order of withdrawal (NOW) account.

# CFPB Prepaid Card Executive Summary

- However, an account that satisfies one or both of these tests is not a prepaid account if it is any of the following:
  - An account loaded only with funds from a health savings account, flexible spending arrangement, medical savings account, health reimbursement arrangement, dependent care assistance program, or transit or parking reimbursement arrangement;
  - An account that loaded only with qualified disaster relief payments; A gift certificate; A store gift card; A loyalty, award, or promotional gift card;
  - A general-use prepaid card that is both marketed and labeled as a gift card or gift certificate; or
  - An account established for distributing needs-tested benefits in a program established under state or local law or administered by a state or local agency

# CFPB Prepaid Card Executive Summary

- Some of the new requirements include: Pre-Acquisition Disclosures; Disclosures on Device or Entry Point; Initial Disclosures; Error Resolution and Limitations on Liability; Periodic Statements and the Periodic Statement Alternative; Internet Posting and Submission of Prepaid Account Agreements; Overdraft Credit Features

# FDIC Spanish Language Website

- FDIC Launches Financial Services Website in Spanish
- [https://www.fdic.gov/consumers/education/seminarios\\_web.html](https://www.fdic.gov/consumers/education/seminarios_web.html)

# Interagency Compliance Rating System

- The Federal Financial Institutions Examination Council (FFIEC), on behalf of its members, is revising the Uniform Interagency Consumer Compliance Rating System, more commonly known as the “CC Rating System.”
- Issued November 8, 2016
- Effective March 31, 2017
- Does not cover CRA

# Interagency Compliance Rating System

- The revisions to the CC Rating System were not developed to set new or higher supervisory expectations for financial institutions and their adoption will represent no additional regulatory burden.
- When the original CC Rating System was adopted in 1980, examinations focused more on transaction testing for regulatory compliance rather than evaluating the sufficiency of an institution's CMS to ensure compliance with regulatory requirements and to prevent consumer harm.



# Interagency Compliance Rating System

- In the intervening years, each of the Agencies has adopted a risk-based consumer compliance examination approach to promote strong compliance risk management practices and consumer protection within supervised financial institutions.
- Risk-based consumer compliance supervision evaluates whether an institution's CMS effectively manages the compliance risk in the products and services offered to its customers.

# Interagency Compliance Rating System

- This concept is reinforced in the Consumer Compliance Rating Definitions by conveying to examiners that assessment factors associated with an institution's CMS should be evaluated commensurate with the institution's size, complexity, and risk profile.
- The Agencies believed it was also important for the new rating system to establish incentives for institutions to promote consumer protection by preventing, self-identifying, and addressing compliance issues in a proactive manner.

# Interagency Compliance Rating System

- “1” rating relates to a “strong” CMS – takes action to prevent violations of law and consumer harm
- “2” rating relates to a “satisfactory” CMS – substantially limits violations of law and consumer harm
- “3” rating relates to a “deficient” CMS at managing consumer compliance risks
- “4” rating relates to “seriously deficient” fundamental and persistent CMS deficiencies that reflect inadequacies in core compliance areas
- “5” rating relates to “critically deficient” CMS and a demonstrated lack of willingness or capability to comply with regulatory consumer protection requirements and prevent consumer harm

# Interagency Compliance Rating System

Assessment Factors relating to Violations of Law and Consumer Harm

- Root Cause
- Severity
- Duration
- Pervasiveness

# Interagency Compliance Rating System

- Therefore, the revised rating system recognizes institutions that consistently adopt these compliance foundational principles:
  - Risk-based - Recognize and communicate clearly that CMS varies based on the size, complexity, and risk profile of supervised institutions.
  - Transparent - Provide clear distinctions between rating categories to support consistent application by the Agencies across supervised institutions. Reflect the scope of the review that formed the basis of the overall rating.

# Interagency Compliance Rating System

- Actionable - Identify areas of strength and direct appropriate attention to specific areas of weakness, reflecting a risk-based supervisory approach. Convey examiners' assessment of the effectiveness of an institution's CMS, including its ability to prevent **consumer harm** and ensure compliance with consumer protection laws and regulations.
- Incentivized - Incent the institution to establish an effective consumer compliance system across the institution and to identify and address issues promptly, including self identification and correction of consumer compliance weaknesses. Reflect the potential impact of any consumer harm identified in examination findings

# Interagency Compliance Rating System

- The CC Rating System is organized under three broad categories:
  1. Board and Management Oversight
  2. Compliance Program Oversight
  3. Violations of Law and Consumer Harm

# Polling Question #4

Do you feel you fully understand the definition of “*consumer harm*?”

- Yes, I fully understand
- Slightly, I could use more clarification
- No





# CFPB Fall 2016 Unified Agenda

## BUREAU OF CONSUMER FINANCIAL PROTECTION

- Semiannual Regulatory Agenda
- As of October 19, 2016.
- The Bureau is working on a number of rulemakings to address important consumer protection issues in a wide variety of markets for consumer financial products and services, including mortgages, debt collection, credit cards, and installment lending, among others.

# CFPB Fall 2016 Unified Agenda

- The Bureau also expects to issue a final rule amending Regulation P, which implements the Gramm-Leach-Bliley Act (GLBA) in fall 2016. Congress recently amended the GLBA to provide an exception to the requirement for financial institutions to deliver annual privacy notices when certain conditions are met. On July 11, 2016, the Bureau published in the Federal Register proposed conforming amendments to Regulation P for consistency with the statutory amendment.

# CFPB Fall 2016 Unified Agenda

- The Bureau is also engaged in policy analysis and further research initiatives in preparation for a rulemaking on overdraft programs on checking accounts.
- The Bureau released materials in July 2016, in advance of convening a panel under the Small Business Regulatory Enforcement Fairness Act (SBREFA)

# CFPB Fall 2016 Unified Agenda

- This SBREFA process focuses on companies that are considered “debt collectors” under the Fair Debt Collection Practices Act. The Bureau expects to convene a separate SBREFA proceeding focusing on companies that collect their own debts in 2017.

# Miscellaneous to do list

- Look at prepaid account definition, determine whether you offer them, and decide whether you will continue to offer them. If you are going to continue, start communication with your vendor(s) or in-house support group to find out the plans for compliance implementation

# Miscellaneous to do list

- On your website, add a link to the Spanish FDIC financial services web site
- Let your Board, Audit Committee, or Supervisory Committee know about the changes to the compliance rating system

# Questions?



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**Keep an Eye out for  
our Next Webinar!**

**Tuesday, April  
25th**

**2:00pm – 3:30pm (EST)**