

Compliance Check Up

September 1, 2024



Friends,

Welcome to another edition of the Compliance Check Up.

It's been a month full of clarifications and other issuances from our friends inside The Beltway. Clarifications of 1071 rules, FDIC Membership rules, BOI, exemptions from categories of offenses that bar individuals from banking, and that ITMs are not branches were all issued in August.

In other news, there is an effort in DC to make you responsible if your customers fall victim to an EFT scam. While we don't think this will gain any traction, we are following the story. The CFPB in conjunction with the 1071 clarifications, launched its beta platform for the reporting of small business loan applications. Those who believe they will be reporting should access the beta and provide feedback to the Bureau.

You will also notice an ad/announcement in this issue. UBB is proud to endorse a new BSA/AML solution from RiskScout that is geared to

community banks, both in functionality and pricing. Our BSA experts have test driven the new platform and liked what they saw. Let us know if you'd like an introduction to RiskScout.

Our own Katie Ferrell, CRCM, CAMS will also be co-presenting a webinar on BSA/AML basics with RiskScout on September 19. Registration information is included herein.

Our Hotline Question of the Month pertains to last month's guidance related to Reconsiderations of Value (ROVs).

Thank you for subscribing to our newsletter. Please share this [link](#) with those at your organization or peers who aren't already signed up for the Check Up. If you have any questions or concerns, call us or email your questions to our [Compliance Hotline](#).

Sincerely,

The UBB Compliance Services Team
614-400-2699

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BSA 101: Covering the Basics with United Bankers' Bank



Katie Ferrell
VP Senior Compliance
Consultant at United Bankers'
Bank

September 19th
2pm ET / 1pm CT

Register Today!



Kristin Parker
Vice President of Compliance
and Operations at RiskScout

Register here: [BSA 101: Covering the Basics with United Bankers' Bank \(riskscout.com\)](https://riskscout.com)

LENDING

August 6 – Freddie Mac and Fannie Mae [extended](#) the mandatory effective date of requirements related to reconsideration of value (ROV) from August 29 to October 31, 2024.

August 16 – The CFPB issued the *2025 Small Business Lending Filing Instructions [Guide](#)* and other [resources](#) to reflect extended compliance dates.

August 26 – The CFPB [announced](#) the availability of the beta platform for the small business lending data collection rule that is available to upload, test, and validate data.

August 26 – The U.S. District Court [denied](#) the various banking-related entities' (Plaintiffs) challenge to the CFPB's 1071 rule and ruled the CFPB did not exceed its authority in issuing the rule. The stay period from the Supreme Court's overruling earlier this year has ended, but the Plaintiffs have publicly stated they are preparing for an appeal.

DEPOSITS

August 1 – Democrats [introduced](#) *The Protecting Consumers from Payment Scams Act* bill to amend EFTA to treat fraudulently induced EFTs, such as when a customer is scammed into sending a payment, in the same manner as unauthorized EFTs.

AML/CFT & FRAUD

August 2 – The ABA [announced](#) the *Check Fraud Claim Directory* is now the *ABA Fraud Contact Directory*. The directory is open to ABA member and non-member banks.

August 8 – FinCEN [released](#) a new video and other material to educate business owners on new beneficial ownership information (BOI) reporting requirements as part of a public outreach campaign.

August 8 – USDA discrimination payments issued August 2nd to more than 43,000 farmers, ranchers, and forest landowners could be targets for check fraud. The ABA has provided [details](#) on how to verify validity with the Treasury Department.

August 16 – The Treasury Department [published](#) its semiannual agenda indicating FinCEN will move forward with proposed rules related to BSA program revisions, CDD, and investment advisor CIP requirements.

August 22 – OFAC [updated](#) FAQs on sanctions, including revisions to clarify when non-U.S. persons are subject to certain sanctions prohibitions.

August 23 – In conjunction with Overdose Awareness Week, FinCEN [reminded](#) banks to monitor and report suspicious activity related to fentanyl and referenced [FIN-2019-A006](#) and [FIN-2024-A002](#) advisories.

August 28 – FinCEN [issued](#) final rules to safeguard residential real estate and investment advisor sectors from illicit finance.

MISCELLANEOUS

August 1 – The OCC [released](#) the list of CRA performance evaluations that became public July 1-July 31, 2024. Of the 28 evaluations made public, one is rated substantial noncompliance, 20 are rated satisfactory, and 6 are rated outstanding.

August 1 – The FDIC [issued](#) a final rule excluding or exempting categories of offenses to participate in banking, such as older offenses, offenses committed by individuals 21 or younger, and relatively minor offenses. The rule is effective October 1, 2024 and expands upon provisions of the Fair Hiring in Banking Act of 2022.

August 2 – The CFPB [joined](#) federal financial regulators in announcing a proposed rule to establish data standards for certain information collections submitted to banks.

August 5 – The FDIC [issued](#) the list of banks examined for CRA Compliance where 51 of 54 banks were deemed satisfactory.

August 8 – The CFPB filed its Appellant Brief appealing the September 2023 decision that vacated the March 2022 changes to the CFPB's UDAAP Exam Manual.

August 9 – The FDIC issued [FIL-53-2024](#) to clarify Interactive Teller Machines (ITMs) are not considered a 'domestic branch' subject to FDIC approval if certain circumstances exist.

August 12 – The Biden administration and CFPB [plan](#) to issue rules or guidance to 'crack down' on chatbots used by banks in lieu of customer service.

August 16 – The FDIC issued [FIL-56-2024](#) regarding the series of Q&As related to the final rule governing FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC Name or Logo.

August 20 - A Federal district court in Texas [enjoined](#) the FTC's final rule to ban the use of noncompete clauses in employee contracts, preventing the rule from being enforced or taking effect on September 4th with respect to nearly all employers. The FTC will appeal the decision and it may eventually end up before the U.S. Supreme Court.

August 22 – The [OCC](#), FRB, FDIC, CFPB, and others published a joint notice of proposed rulemaking to implement the Financial Data Transparency Act 2022. Comments are due by October 21, 2024.

August 23 – The CFPB [published](#) filing instructions for its nonbank registry and an [email](#) address for entities to ask questions about registration.

August 29 – The Congressional Research Service [published](#) a report on the effect of rescheduling marijuana on access to financial services and concluded rescheduling would have no effect on state recreational marijuana laws, and the enacting of bill such as the SAFER Banking Act would be more effective.

August 29 – The FFIEC [announced](#) it will sunset the Cybersecurity Assessment Tool (CAT) on August 31, 2025.

August 29 – The OCC [issued](#) the fourth quarter 2024 and first quarter 2025 CRA evaluation schedule.

August 29 – The FFIEC [issued](#) the Development, Acquisition, and Maintenance (DA&M) booklet, which is part of the *FFIEC Information Technology Examination Handbook*. The booklet replaces the *Development and Acquisition* booklet issued in April 2004.

August 30 – The FDIC [released](#) CRA exam schedules for the fourth quarter 24 and first quarter 2025.

ENFORCEMENT ACTIONS

August 8 – The Federal Reserve [issued](#) an enforcement action related to AML/CFT deficiencies on digital asset customers against a Pennsylvania bank.

August 21 – The CFPB [ordered](#) a mortgage servicer to pay \$5 million in redress and penalties for illegal foreclosure practices and violations of servicing laws.

August 22 – The OCC [announced](#) enforcement actions for August 2024, including formal agreements for deficiencies related to board oversight, strategic planning, internal audit and controls, AML/CFT, as well as orders against individuals for embezzlement and fraud.

August 30 – The FDIC [issued](#) July 2024 orders, including those related to credit underwriting and administration, risk management oversight, AML/CFT programs, third-party risk management, succession planning, and more.

HOTLINE QUESTION OF THE MONTH

Q: I am looking for an answer regarding what loans a reconsideration of value (ROV) pertains. I understand this applies to 1-4 family residences, whether consumer or commercial. Is it as simple to say that if we order a new appraisal, the new disclosure should be provided? I was asked about construction loans, refinances, and we will order an appraisal for a second mortgage loan if the value is over 80%. Do those circumstances fall under this ROV umbrella? I'm not seeing anything in the rule that precludes these situations, unless I'm misinterpreting something.

A: ROVs typically are requested because the recipient has provided information to the Bank that **could** indicate appraisal bias, violation of fair lending laws, or discriminatory practices for **residential** real estate, which encompasses the examples noted. The guidance is applicable to 'appraisals,' which are

defined as a written statement independently prepared to set forth an opinion of market value;’ therefore, we interpret that to mean **any** residential appraisal, regardless of loan type. Regarding how a customer may request an ROV, the guidance only states it must be *clear and in plain language*. There is no ‘standard’ ROV process, and the use of the word **may** (regarding controls) is reiterated throughout the guidance. Controls should be risk-based, but many of our clients are delivering an initial disclosure outlining borrower rights.

In our opinion, the key is keeping the ‘why’ behind the guidance as the driver for controls, which is to combat appraisal bias and mitigate valuation discrimination. Keep in mind that regardless of how a request for an ROV is initiated, they (like other complaints), should flow through your Complaint Management processes, which means that sometimes (like other complaints), the escalation/action taken **may not** result in an ROV. Examples of policies, procedures, and when discrimination or bias may exist begin on p. 33 of the [guidance](#).

Keep in mind the use of third-parties (i.e. Appraisal Management Companies or intermediaries) also does not diminish the Bank’s responsibilities.

About UBB Compliance Services

UBB Compliance Services provides solutions designed specifically for community banks and are supported by industry trained compliance experts. Regardless of the level of compliance support you need, UBB Compliance Services has an option right for you.

Have a question? Ask here.

Click to request more information or pricing

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