

# Compliance Check Up

November 1, 2024



***Friends,***

Welcome to another edition of the Compliance Check Up.

As we all anxiously await the finality of this year's Presidential election and potential residual impacts to regulatory changes in process, agency oversight, and much more, October was relatively quiet.

The CFPB finalized '1033,' the personal data rights rule, but not without immediate challenges from State banking associations and trade groups; and published its latest *Supervisory Highlights: Auto Finance* focused on violations related to 'add on' products. The FDIC also extended the new signage and advertising rule to May 1st of next year if you need more time to implement changes.

Enforcement actions continue to occur frequently, and the notable ones were against TD Bank and others for major AML/CFT program deficiencies. The first ever redlining settlement was also made with a Federal credit union, which hopefully is a move toward promoting a more level playing field among financial institutions.

Our hotline question of the month is related to Identity Theft Prevention Programs, so be sure to check it out.

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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## ***LENDING***

October 1 – The CFPB [issued](#) an Advisory Opinion regarding attempts to collect medical debt, which follows the proposal to ban medical bills from credit reports.

October 1 – HUD [released](#) a draft mortgagee letter (ML) proposing to extend from 12 to 36 hours the deadline for FHA-approved lenders to report cybersecurity incidents. The ML would supersede ML 2024-10.

October 2 – The FDIC [released](#) its *2024 Report on 2022 Small Business Lending Survey Report* that offers insight into small business lending practices.

October 3 – The OCC [issued](#) Bulletin 2024-29 to provide guidance for managing credit risk associated with commercial loan refinances.

October 4 – The CFPB and FRB [announced](#) the dollar thresholds used to determine whether certain consumer credit and lease transactions in 2025 are subject to certain protections under Regulation Z and Regulation M.

October 4 – The CFPB, FRB, and OCC [announced](#) the 2025 threshold for higher-priced mortgage loans subject to special appraisal requirements.

October 7- The CFPB [published](#) its *Supervisory Highlights: Special Edition Auto Finance* highlighting a trend of violations related to add-on products, deceptive pre-screened advertising, repossessions, and more.

October 28 – FHFA [announced](#) updates to Fannie and Freddie policies on appraisals, loan repurchase alternatives, and pricing notifications.

October 30 – The *2024 Fair Lending Interagency Webinar* will be held Wednesday, December 4<sup>th</sup> at 1:00pmCT. Register [here](#).

## **DEPOSITS**

October 17 – The FDIC issued a [memo](#) extending the new signage and advertising [rule](#) compliance date by four months to May 1, 2025.

October 22 – The ABA, ICBA, and others [urge](#) the CFPB to rescind September’s [Circular 2024-05](#) on *improper* overdraft opt-in procedures.

## **AML/CFT & FRAUD**

October 1 – FinCEN [updated](#) the 314(a) fact sheet. As of October 1, 2024, a total of 7,190 requests were processed.

October 8 – CISA [issued](#) an alert to consumers to be vigilant against scammers after the recent hurricanes.

October 15 – FinCEN [issued](#) a final rule exempting public utilities such as telecommunication services, electric power, nature gas,

or water and sewer services in the U.S. from beneficial ownership reporting requirements.

October 16 – FinCEN [renewed](#) real estate geographic targeting orders that require U.S. title insurance companies to identify the natural persons behind shell companies used in non-financed purchases of residential real estate.

October 23 – FinCEN [issued](#) an alert to banks to counter financing of Hizballah and its terrorist activities.

October 24 – FS-ISAC [published](#) the white paper *Deepfakes in the Financial Sector: Understanding the Threats, Managing the Risks* to help banks and cybersecurity teams defend themselves from this new attack.

October 30 – FinCEN [informed](#) U.S. banks that FATF updated its list of jurisdictions with strategic AML/CFT/CPF deficiencies.

## ***MISCELLANEOUS***

October 1 – The OCC [released](#) its *Bank Supervision Operating Plan for 2025*, which included various strategies. Specifically, compliance efforts will focus on AML/CFT, CRA, Fair Lending, and consumer compliance.

October 1 – The OCC [released](#) CRA evaluations for 21 banks, of which 16 were rated satisfactory, and 5 were rated outstanding.

October 3 – The FDIC [issued](#) a list of banks recently evaluated for CRA.

October 7 – The OCC is [soliciting](#) academic research on the use of artificial intelligence (AI) in banking and finance by December 15, 2024.

October 8 – The FDIC is [extending](#) the comment period on its proposed brokered deposits rule to November 21, 2024.

October 16 - The New York State Department of Financial Services [issued](#) guidance for banks on how artificial intelligence (AI) is changing cybersecurity risks, including measures to mitigate threats.

October 17 – A recording of the October FDIC Board of Directors meeting is available [here](#).

October 22 – The CFPB [finalized](#) the *Personal Financial Data Rights Rule* to ‘boost competition, protect privacy, and give more families more choice in financial services.’ The largest institutions will have to comply by April 1, 2026, while the smallest banks, defined as those less than \$850 million in assets, will have until April 1, 2030. Certain small banks and credit unions are not subject to this rule. State bank associations and trades have since filed lawsuits challenging the rule.

October 24 – The CFPB [published](#) Circular 2024-06 stating employers who use algorithmic scores and credit reports during hiring decisions are subject to FCRA.

October 29 – The FDIC [updated](#) the *Risk Management Manual of Examination Policies*, specifically Section 21.1-Examination Planning-Point in Time.

October 31 – The Federal Reserve [released](#) the latest *Consumer Compliance Outlook*, focusing on flood insurance, RESPA, and more.

## ***ENFORCEMENT ACTIONS***

October 10 – The OCC [issued](#) a cease and desist order and \$450 million civil money penalty against TD Bank for deficiencies in the AML/CFT compliance program.

October 10 – The DOJ’s [proposed](#) consent order against Citadel

Federal Credit Union is the first redlining settlement with a credit union which has agreed to pay more than \$6.5 million to resolve allegations of redlining in Pennsylvania.

October 15 – The CFPB and DOJ took [action](#) against Fairway Independent Mortgage for illegal lending discrimination and redlining in Birmingham, AL. The mortgage lender is ordered to pay a \$1.9 million penalty and provide \$7 million in loan subsidies.

October 17 – The OCC [announced](#) enforcement actions for October 2024, including those related to deficient AML/CFT programs, third party risk management specifically with merchant processing and prepaid card partnerships, and board and management oversight.

October 18 – The OCC [closed](#) a \$108 million asset bank in Oklahoma after identifying false and deceptive bank records and other information suggesting fraud that revealed depletion of the bank's capital.

October 24 – The Federal Reserve board [announced](#) actions against a Washington bank for violations of consumer compliance and issues related to lending administration, conflicts of interest, and more.

October 25 – The FDIC [announced](#) September actions, including those related to AML/CFT programs, governance, and more.

## ***HOTLINE QUESTION OF THE MONTH***

Q: I am working on updating our ID Theft Risk Assessment. It hasn't changed for many years, and I think I need to take a new approach to it.

The questions I have are:

- The current risk assessment lists the different types of accounts (i.e. Single Party, Joint, POD, etc.). Can we not just list checking, savings, CODs, debit cards?
- I believe I also need to include Business account products, is that correct?

- The regulation talks about Service Providers. Currently the Risk Assessment includes the Service Provider, but can we just reference the Vendor Due Diligence Program we have and that a Risk Assessment is conducted on those vendors?

A: According to Part 681, ID Theft Rules apply to covered accounts and their definition of that is:

1. *An account that a financial institution or creditor offers or maintains, primarily for personal, family, or household purposes, that involves or is designed to permit multiple payments or transactions, such as a credit card account, mortgage loan, automobile loan, margin account, cell phone account, utility account, checking account, or savings account; and*
2. *Any other account that the financial institution or creditor offers or maintains for which there is a reasonable foreseeable risk to customers or to the safety and soundness of the financial institutions or creditor from the identity theft, including financial, operational, compliance, reputation, or litigation risks.*

From that definition, your decision to include or exclude business accounts would be based on the Bank's risk assessment and if there is a *reasonable foreseeable risk to customers or to the safety and soundness of the Bank*. Some things to consider may be, the Bank's experience with wire fraud, ACH fraud, account takeover with business accounts, or other like concerns.

You can simply categorize the accounts as checking, savings, CDs, debit cards, etc. Furthermore, it is acceptable to refer to the Bank's Vendor Due Diligence Program within your ID Theft Red Flags program/policy, if that is where you cover your policy and/or procedures for vendor relationships and ID Theft Red Flags. You'll want to make sure that you continue to include oversight of service provider arrangements in your annual report to the board though.

## **About UBB Compliance Services**

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experts. Regardless of the level of compliance support you need, UBB Compliance Services has an option right for you.

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