

Compliance Check Up

July 1, 2024



Friends,

Welcome to another edition of the Compliance Check Up.

It was a relatively quiet month in June, but the Bureau did issue a few things that will require your attention at some point, including a proposal to remove medical collections from credit reports, recalibrating the effective dates of 1071 reporting, and other miscellaneous circulars and issuances. They even brought a few actions to non-bank financial service companies.

Elsewhere inside The Beltway, FinCEN issued several documents including a recap of 2023 BSA reporting data, an update to their BOI FAQs, and a request for comment regarding correspondent and private banking accounts. They also issued a new proposal to "strengthen and modernize" financial institution AML/CFT programs. We will keep you posted on this one, as comments will likely be due by September 3.

The prudential regulators issued several enforcement actions, and

lack of controls over AML/CFT programs seems to be a theme this month. Our Hotline Question of the Month also addresses AML/CFT controls.

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

June 11 - The CFPB [proposed](#) a [rule](#) that would remove medical bills from most credit reports, increase privacy protections, help to increase credit scores and loan approvals, prevent credit reporting companies from sharing medical debts with lenders, and prohibit lenders from making lending decisions based on medical information. A [Fast Facts](#) summary was also published. Comments are due by August 12, 2024.

June 14 – The CFPB’s [rule](#) from 2017 to enforce protections for payday and installment loans should go in effect March 30, 2025 now that litigation and the CFPB’s funding are resolved.

June 17 – The FFIEC [announced](#) the issuance of the revised A Guide to *HMDA Reporting: Getting It Right!* (2024 guide), which

reflects the asset-size exemption threshold effective January 1, 2024 for reporting HMDA data on closed-end mortgage loans. The OCC released [Bulletin 2024-15](#).

June 20 – The OCC and FDIC [approved](#) a final rule to implement quality control standards for automated valuation models (AVMs) used by mortgage originators in valuing residential real estate collateral securing mortgage loans. The CFPB [announced](#) its approval on June 24th. The rule on algorithmic appraisal tools was developed with the FHFA, FDIC, Federal Reserve, NCUA, CFBP, and OCC. The rule will take effect approximately one year after all agencies provide their final approval.

June 21 – The CFPB [released](#) its *Negative Equity in Auto Lending* report that analyzes data related to financing negative equity in vehicle trade-ins and relation to repossession, credit scores, and household income.

June 25 – The CFPB [issued](#) an interim final rule to extend compliance dates for the small business lending rule by 290 days, which is the time that elapsed between the Texas court's first issuance of a stay last year and the Supreme Court's ruling on the Bureau's funding last month. Under the changes, lenders with the highest volume of business loans will begin collecting by July 2025 and smallest by October 2026.

June 26 – The CFPB [released](#) the most recent *Fair Lending Report* addressing enforcement and supervision, rulemaking and guidance, ongoing litigation, ECOA and HMDA, and digital discrimination.

DEPOSITS

June 21 – The Federal Reserve [announced](#) the extension of the comment period to September 6th on its proposal to expand the operating days of the Fedwire Funds Service and National Settlement Service to include weekends and holidays.

AML/CFT & FRAUD

June 7 – FinCEN [released](#) its *Year in Review for FY 2023* infographic, which reveals BSA reporting data related to

CTRs, SARs, 314(a), 314(b), regulatory actions, and guidance.

June 7 – The FDIC OIG [issued](#) new scam alerts to inform banks about a common type of scam known as ‘pig butchering’ where victims are lured into investing cryptocurrency to a seemingly sound investment before the scammer disappears with the contribution.

June 10 – FinCEN made more updates to Beneficial Ownership Information (BOI) [FAQs](#).

June 11 – FinCEN [requests](#) comments on the renewal of BSA regulations applicable to correspondent and private banking accounts. Comments are due by August 12, 2024.

June 14 - As the nation recognized World Elder Abuse Awareness Day, FinCEN [reminded](#) financial institutions to remain vigilant in identifying and reporting suspicious activity related to elder financial exploitation (EFE).

June 17 – The Federal Reserve [introduced](#) the *ScamClassifier model*, a voluntary classification structure that supports consistent and detailed classification, reporting, analysis and identification of scams, attempted scams, and related trends.

June 20 – FinCEN [issued](#) advisory [FIN-2024-A002](#) to alert banks to new trends regarding fentanyl and provide SAR instructions. The supplementary builds off [FIN-2019-A006](#).

June 20 – The OCC, Federal Reserve, and FDIC [issued](#) a notice of proposed rulemaking that would amend AML/CFT programs to align with FinCEN’s AML Act of 2020 and consider the national AML/CFT priorities published by FinCEN. The proposal is not intended to establish new obligations but to summarize the goal that programs are *risk-based* and *reasonably designed*.

June 26 – FinCEN [issued](#) a final rule prohibiting Al-Huda Bank from the U.S. financial system by prohibiting banks from opening or maintaining correspondent accounts for or on behalf of the Iraqi bank found to be of primary money laundering concern.

June 28 - FinCEN [proposed](#) a new rule to modernize and amend existing AML/CFT program (program) rules to explicitly (1) require financial institutions (FIs) to establish, implement, and maintain effective, risk-based, and reasonably designed programs with certain minimum components, including a

mandatory risk assessment process; (2) require FIs to review [government-wide AML/CFT priorities](#) and incorporate them, as appropriate, into risk-based programs, as well as provide for certain technical changes to program requirements; and (3) promote clarity and consistency across FinCEN's program rules for different types of FIs. FinCEN also published a [Fact Sheet](#).

MISCELLANEOUS

May 30 – The OCC [released](#) its schedule of CRA evaluations to be conducted in the third and fourth quarters of 2024.

May 31 – The FDIC [issued](#) CRA examination schedules for third and fourth quarters of 2024.

June 3 – The OCC [released](#) a list of CRA performance evaluations for 19 National Banks and Federal Savings Associations.

June 3 –The CFPB [issued](#) a final rule to create a nonbank enforcement action registry that will be effective September 16, 2024 with registration beginning October 16th.

June 4 – The CFPB issued [Circular 2024-03](#) to emphasize that covered persons who include unlawful or unenforceable terms in their consumer contracts may violate the CFPA's prohibition on deceptive acts or practices.

June 5 – The CFPB [issued](#) a partial final rule outlining qualifications organizations must meet to become recognized standard-setting bodies under their proposed financial data-sharing regulation, which would implement Section 1033 of the Dodd-Frank Act and recognize open banking standards. It also contained a step-by-step [guide](#) on the process.

June 6 – The OCC [published](#) its *Community Developments Insights* detailing ways banks can promote financial health of their customers.

June 6 – The Treasury department [issued](#) a request for information on the use of artificial intelligence (AI) in the financial services sector and the opportunities and risks presented by AI developments and applications.

June 6 – Acting Comptroller of the Currency [discussed](#) systemic risk implications of AI in banking and finance.

June 8 – The CFPB [issued](#) its *Semi-Annual Report of the CFPB* to Congress covering April 1, 2023 through September 30, 2023. Director Chopra [released](#) his opening statement before the Senate Committee on Banking on June 12th and [appeared](#) before the House Financial Services Committee on June 13th. Initiatives addressed ‘junk fees,’ medical debt, open banking, credit cards, and more.

June 11 – The OCC published [Bulletin 2024-13](#) to announce version 2.0 of the *Retail Nondeposit Investment Products* booklet of the *Comptroller’s Handbook*, which also rescinds OCC Bulletin 2015-2.

June 13 – President Biden [announced](#) his intent to nominate Christy Romero as the Chair of FDIC to replace Martin Gruenberg who announced his resignation last month.

June 18 – The FDIC [updated](#) the *Consumer Compliance Examination Manual*. The annual thresholds were updated in the Truth in Lending Act and Community Reinvestment Act chapters.

June 18 – The OCC [reported](#) key issues facing the banking system in its *Semiannual Risk Perspective for Spring 2024*,

which highlighted credit, market, operational, and compliance risks as key themes.

June 20 - The FDIC met in an open session to discuss regulatory matters. Materials and information related to the board meeting are [here](#).

ENFORCEMENT ACTIONS

June 14 – The Federal Reserve Board [issued](#) a Cease and Desist order against Evolve Bank for deficiencies in the AML/CFT program, risk management, and consumer compliance, specifically with financial technology (Fintech) partners.

June 17 – The OCC [announced](#) enforcement actions for June, including deficiencies related to AML/CFT, governance, risk management, and strategic planning.

June 18 – The CFPB took actions against repeat offender [Freedom Mortgage](#) for violating order for housing data errors and against a consulting [firm](#) for reverse mortgage servicing failures.

June 28 – The FDIC [announced](#) several May enforcement actions, including those related to Board oversight, capital planning, IT, strategic planning, AML/CFT, Fintech risk management, and more.

HOTLINE QUESTION OF THE MONTH

Q: Do you see a conflict of interest of the BSA Officer generating CTRs from cash reports and filing them? Historically, a branch employee prepares the CTR form, and the BSA officer reviews it for accuracy before filing with FinCEN. Is there a best practice for who completes and reviews CTR's?

A: We typically see the reporting occur as stated. Information, including verifying identifying information, for the CTR is collected/originated by personnel who process the transaction, then reviewed for accuracy/appropriateness by the BSA Officer

prior to filing, which includes review of daily cash reports to ensure none were missed by staff, need aggregation, etc.

According to the FFIEC exam manual's [BSA/AML Internal Controls](#) AND [Currency Transaction Reporting](#) sections, examiners expect the following:

Incorporate dual controls and the segregation of duties to the extent possible. For example, employees who complete the reporting forms (such as suspicious activity reports (SARs), currency transaction reports (CTRs), and CTR exemptions) generally should not also be responsible for the decision to file the reports or grant the exemptions.

Examiners should also consider general internal controls concepts, such as dual controls, segregation of duties, and management approval for certain actions, as they relate to the bank's reporting of currency transactions. For example, employees who complete CTRs generally should not also be responsible for the decision to file the reports. Other internal controls may include BSA compliance officer or other senior management approval for staff actions that override currency aggregation systems and review of exception reports for those overrides.

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