

Regulatory Update

BankTalk

Kristen Stogniew, Esq, Shareholder
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FAST FACTS

Saltmarsh, Cleaveland & Gund

At Saltmarsh, we believe the way to achieve success is by contributing to the success of others, which is why we thrive in ***genuine relationships***. Our passion for people and ***excellence*** is more than a shared value; it's the foundation of our work.

SIZE OF FIRM



OFFICE LOCATIONS

5

FLORIDA
Destin
Orlando
Pensacola
Tampa

TENNESSEE
Nashville

AFFILIATIONS

SALTMARSH FINANCIAL ADVISORS, LLC



THE BDO ALLIANCE USA



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Audit & Assurance | Business Valuation | Employee Benefits Consulting | Financial Planning | Litigation Support & Dispute Advisory | Outsourced Accounting Solutions | Tax Compliance & Consulting | Technology & Managed IT Consulting | Wealth Management

WHO WE SERVE

Financial Institutions | Construction & Real Estate Development | Governments, Municipalities & Pension Plans | High Net Worth Individuals | Manufacturing & Distribution | Non-Profit | Post-Acute Healthcare | Professional Employer Organizations (PEOs)





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Drivers of increased regulatory activity:

- Political climate
 - So, so, so, many consumer regulations in some phase of implementation
- Staffing shortages
 - In all areas, including compliance and risk management
- Technology advances
 - Fintech and other third parties
- Uncertain economics
 - Capital, liquidity & funds management, credit administration and CECL, IT and Infosec
- Fraud triangle (opportunity, pressure, rationalization)
 - insider fraud prohibition orders and/or civil money penalties and tricked customers.

Personal Prohibition Orders against Institution-Affiliated Parties

Date	State	Assets	Position	Actions	CMP?
1/16/2024	KY	1.4b	Market President	Illegal EIDL loan for his sole proprietorship	
2/7/2024	MI	2.4b	General Counsel	Coverup of suspicious activity in residential loan product	
2/9/2024	KY	189m	President	Approved overdrafts w/o source of repayment & over authority	7k
1/8/2024	WY	42m	CFO	Removal of confidential supervisory information	
1/8/2024	IA	584m	EVP and 2 SVPs	Misappropriation of customer information	50k/ea
1/16/2024	AR	394m	9 loan-related individuals	UDAP-loan rates; VA affiliation; skip-a-pay	505k
1/31/2024	AL	664m	Loan Ops Specialist	Theft of customer funds via wire transfers	
1/31/2024	MN	103m	Teller	Theft of customer funds via forged withdrawal slips	
3/12/2024	RI	21m	EVP	Conflict of interest with referral source	
3/6/2024	NY	9.1b	Operations Specialist	Theft of deceased customer funds	
4/18/2024	NC	512b	Branch banker	Theft of customer funds via counter checks	35k
4/24/2024	IL	171m	EVP Commercial lending	Theft of customer funds via loan account withdrawals	7k
4/29/2024	NC	512b	Branch banker	Theft of customer funds via unauthorized debit cards	
5/23/2024	TX	695m	SVP Loan Officer	Approved construction loan advances w/o support & coverup	25k
6/17/2024	NC	220b	Vault Teller	Theft of vault funds	
6/17/2024	SC	45b	Financial Service Rep	Theft of funds via fictitious loans, using deposits accounts for loans	15k
6/20/2024	DE	149b	Consumer lending	Straw applications for COVID unemployment assistance	
6/25/2024	GA	378m	Loan Officer	Theft of customer funds via cash withdrawals and EFTs	
6/25/2025	NC	512b	Branch banker	Theft of customer funds via recurring ACHs	7k
6/25/2024	ND	290m	President/CEO/Director	Advanced funds w/o approval, issued unfunded money orders from GL, covered it up.	

5 Does not include 48 more from OCC in 2024



Personal Order of Prohibition issued 2/27/2024 by FDIC

- Bank of Morton, MS (\$81 million) - As an employee of the Bank from August 2018 through April 2019, Respondent manipulated the Bank's general ledger accounts to cash and pay checks of her son's trucking company to avoid overdrawing his business checking account causing a loss to the institution of approximately **\$255k**.
- Bank also had **\$600k CMP** for BSA violations 12/28/2023, for failure to comply with June 2020 consent order
- Acquired by Bank of Commerce (\$950 million)



Rhenae Risher · 3rd
Compliance Officer at Bank of Morton



Pig Butchering scam of “dominant official” takes down a Bank

- CEO of Heartland Tri-State Bank, KS (\$139 million) pled guilty to bank fraud 5/23/2024
 - Sentenced 8/21/2024 to 24 years in prison
- Willfully misapplied and embezzled \$47.1 million of bank funds to purchase cryptocurrency for personal benefit
 - Scheme started in late-2022
 - Also stole from investment club and his daughter’s college savings account
 - Scammers insisted they needed more funds to unlock the supposed returns on his investments
 - Sent large wires from May-July 2023
 - Orchestrated schemes to cover his tracks
- Bank failed on July 28, 2023

FinCEN alert 9/8/2023

- **Build Trust:** Scammers initiate contact via text messages, social media, or messaging apps (WhatsApp) – often through **unexpected contact**. They create rapport by discussing personal topics unrelated to investments, often pretending to be a widow, single parent, or military member living overseas. They might even share fake photos and life details to gain your trust.
 - Red Flags – they request financial information, refuse to participate in video chats, provide unsolicited investment advice or tips, sense of urgency, elevated emotions, commonly involving cryptocurrency.
- **Investment Pitch:** After establishing trust, the scammer shifts the conversation toward investments. They might claim to have insider information from a reputable financial institution or share screenshots of fake brokerage accounts showing impressive gains.
- **Manipulation:** The scammer will ask you to verify your brokerage account’s ability to trade specific securities. Once you express interest, they provide instructions for investing in a fraudulent scheme. Victims often lose substantial amounts of money.
- Often use victims of human trafficking for the scam

Fighting fraud update

- New York vs. Citibank - NY AG sues for violations of EFTA for lack of security measures --- Expands Reg E to consumer wire transfers -- CFPB and ABA file amicus briefs – CFPB says EFTA applies when banks connect the capacity to initiate a wire transfer to a consumer facing banking platform. ABA says not true.
- Congress “Protecting Consumers from Payment Scams Act” announced August 2024 ---
 - Brings wires and EFTs conducted by phone transfer within ambit of Reg E
 - Protects consumers when they make a mistake, such as in amount or recipient, or if they don’t receive goods or services purchased
 - Limits EFT liability for “fraudulently induced” transfers in addition to unauthorized ones
 - Receiving FI would have to reimburse sending FI; other facilitating parties may also share liability
 - Error resolution duties apply if the consumer’s account is frozen or closed, unless access has been denied due to a court order, law enforcement, or the consumer obtained the funds through unlawful or fraudulent means
- Introduced in the House by Rep. Maxine Waters (D-CA) and in the Senate by Sen. Richard Blumenthal (D-CT) and Sen. Elizabeth Warren (D-MA).

2024 to-date BSA/AML consent orders & written agreements (22)

			Assets	TPRM	Look back	ACH	Fintech /Baas	Credit Admin	Invest-ment	IRR/ALM	Liquid-ity	Capital	IT/Info sec	Internal Controls /RM	Mgmt Succession	Regulatory Compliance
1/24/2024	OCC	VA	3b	X	X		X					X	X			
1/30/2024	FDIC	TN	291m	X	X	X	X				X	X		X		
2/27/2024	FDIC	NY	578m	X	X		X			X	X		X			X
6/11/2024	FRB	AR	1.5b	X	X		X	X		X		X	X	X		X
2/1/2024	FDIC	OH	2.25b	X			X									
5/21/2024	FDIC	TN	709m	X			X				X			X		
1/29/2024	OCC	CA	93.4b		X				X					X		X
3/12/2024	FDIC	AL	3.42b		X										X	
3/13/2024	OCC	OH	4.09t		X				X					X		
4/24/2024	FDIC	PA	71m		X			X		X	X	X				X
6/4/2024	OCC	WY	94m		X						X	X		X		
6/18/2024	OCC	IL	1.7b		X					X	X					
8/5/2024	FRB	PA	21b		X											
1/29/2024	FDIC	TN	211m												X	
2/29/2024	OCC	OH	521m							X	X					
3/21/2024	FDIC	OK	151m													
5/2/2024	FRB	MT	78m													
5/22/2024	FDIC	TN	303m											X		
5/29/2024	OCC	NY	23.4b													
5/31/2024	FDIC	CA	101m					X		X				X	X	
7/19/2024	FRB	UT	4.6b													X
7/26/2024	OCC	PA	175m											X	X	

BSA/AML/CFT Consent orders typically require:

1. Action plan within 45 days
2. Correct report violations
3. Increase Board Oversight (Consent Order Compliance Committee)
4. ML/TF Risk Assessment
5. Independent Staffing/Resource Assessment (some require independent)
6. Written AML/CFT compliance program (with all Pillars)
7. Review and oversight of CDD and SAR requirements, Training, and Independent Testing
8. Progress Reports
9. Notification to shareholders
10. A “look back” -- review of suspicious and high-risk transactions and customers to determine whether reportable transactions and suspicious activity involving any accounts or transactions within or through the Bank were properly identified and reported (Can have an “Initial” Look Back Review period of several years, with potential for requirement to review additional time periods in an “Additional” Look Back Review). Very \$\$\$\$\$



What else is “new” in AML/CFT?

- NPRM for Section 6101 of the AML Act of 2020 – 89 FR 55428, 7/3/2024. **Comments due 9/3/2024**
 - ANPRM received 111 comments on “effectiveness” – chose not to define it in NPRM
 - Adds “effective” and “risk-based” to a “reasonably designed” AML/CFT program that focuses attention and resources in a manner consistent with the risk profile of the financial institution that takes higher risk and lower risk customers and activities, and:
 1. Establishes risk assessment process (NEW)
 2. Reasonably manages and mitigates ML and TF risks through policies, procedures, and controls, which *may* include consideration and evaluation of innovative approaches to meet its AML/CFT compliance obligations;
 3. Designates one or more qualified individuals responsible for day-to-day compliance
 4. Includes an ongoing employee training program
 5. Includes independent, periodic program testing by qualified bank personnel or a qualified outside party
 6. Includes risk-based procedures for conducting ongoing due diligence (same as current)

AML Act of 2020 NPRM – cont'd

- The program must be documented and approved by the BOD, and must be subject to “oversight”. Oversight contemplates governance mechanisms, escalation, and reporting lines to ensure that the board of directors (or committee) can properly oversee whether AML/CFT programs are effective, risk-based, and reasonably designed.
- The new 6th Pillar - “risk assessment processes” that must be integrated into the AML/CFT program and incorporate:
 - Law enforcement priorities (issued 6/31/2021)
 - Reports filed under Chapter X and law enforcement feedback
 - Adds “distribution channels” and “intermediaries” to risk assessed areas (customers, products/services and geographies)

2024 to-date non-BSA consent orders & written agreements (20)

			Assets	TPRM	Credit Admin	Concentration	Investment	IRR/ALM	Liquidity	Capital	IT/Infosec	Internal Controls / RM	Mgmt/Succession	Regulatory Compl	Corp Governance or Incentive Comp
1/22/2024	FRB	KY	128m		X				X	X			X		
3/12/2024	OCC	MN	205m		X	X			X	X					X
3/28/2024	FRB	TX	918m		X				X	X				X	X
4/2/2024	OCC	MN	535m		X				X	X					
4/29/2024	FDIC	IL	91m		X	X		X	X	X			X		
5/1/2024	OCC	IL	55m						X	X					
5/3/2024	FDIC	MD	7b					X	X	X	X				
7/16/2024	FRB	MN	120m						X	X					
7/23/2024	OCC	NY	128m					X	X	X					X
7/25/2024	OCC	OH	287m					X	X	X					X
5/1/2024	FDIC	OK	140m	X				X		X	X				
1/19/2024	OCC	MI	306m							X					
4/17/2024	OCC	GA	481m		X			X	X		X	X	X		X
5/29/2024	FDIC	NJ	1.46b						X						
7/19/2024	OCC	NY	401m					X	X						X
4/4/2024	OCC	MI	116m	X			X				X	X			X
4/18/2024	FDIC	OH	101m										X		
4/29/2024	FDIC	OH	94m												
6/20/2024	OCC	NE	395m												
7/10/2024	FRB/OCC	SD	2.43t									X			

166% increase from same period 2023

Regulatory Compliance update

- In 2023, 98% of all FDIC-supervised institutions were rated satisfactory or better for consumer compliance (i.e., ratings of “1” or “2”), and 99 percent were rated “Outstanding” or “Satisfactory” for the Community Reinvestment Act (CRA)
- Five most frequently cited level 2 or 3 violations
 - Truth in Lending Act (most cited was TRID Closing Disclosure)
 - Flood Disaster Protection Act (most cited was adequacy of flood insurance)
 - Electronic Fund Transfers Act (most cited was EFT error resolution procedures)
 - Truth in Savings Act (most cited was timing and content of deposit account disclosures)
 - Section 5 of FTC act (Unfair & Deceptive Acts & Practices/UDAP) (most cited was NSF re-presentation)

FDIC Compliance Related Enforcement Actions

Year	# Formal	# Informal	CMP \$000s	Restitution \$000s	# consumers	Regs
2023	16	16	474	10,600	130,000	Flood, UDAP, HMDA
2022	21	10	1,300	13,600	61,000	Flood, UDAP, RESPA §8, FCRA
2021	20	24	2,700	4,500	49,000	Flood, UDAP
2020	8	16	64	7,400	67,000	Flood
2019	19	15	2,100	4,800	19,250	Flood, UDAP, RESPA

Source: Annual Consumer Compliance Supervisory Highlights

Fair Lending

- July 2, 2024 – CFPB’s 11th Fair lending report to Congress:
 - mortgage origination (including redlining, property valuation bias, and HMDA and Regulation C compliance)
 - credit card marketing and the use of alternative data in digital marketing; and
 - the use of automated systems and models, sometimes marketed as artificial intelligence (AI) and machine learning models, in credit card originations.
- 7/22/2024 – Final Rule on Real Estate Valuations: QC Standards for AVMs by mortgage originators and secondary market issues on mortgages secured by a consumer’s principal dwelling
 - Covered AVMs must adhere to quality control standards designed to: (1) ensure a high level of confidence in the estimates produced by AVMs; (2) protect against manipulation of data; (3) seek to avoid conflicts of interest; (4) require random sample testing and reviews; and (5) comply with applicable nondiscrimination laws.
- Guidance on Reconsiderations of Value for Residential Real Estate Valuations

Recent DOJ Fair lending litigation

- 10/4/2023 – Order against American Bank of Oklahoma (\$384 million) – alleged unlawful redlining in the Tulsa, Oklahoma MSA
- 10/31/2023 – Order against Washington Trust Co., RI (\$7.25 billion) – alleged unlawful redlining
 - despite expansion across RA, have never opened a branch in a majority-Black and Hispanic neighborhood
 - relied on mortgage loan officers working out of only majority-white areas as the primary source for generating loan applications,
 - failed to train or incentivize its lending staff or conduct outreach, marketing and advertising of its mortgage services to compensate for its lack of branches and presence in majority-Black and Hispanic areas.
- 11/7/2023 – Order against Ameris Bank, GA (\$25.6 billion) – alleged unlawful redlining in the bank’s Jacksonville, Florida service area
 - None of the 18 branches in Jacksonville were in a majority-Black and Hispanic neighborhood
 - other lenders had 3x applications in majority-Black and Hispanic neighborhoods
- 1/30/2024 – Order against Patriot Bank, TN (\$470 million) – alleged unlawful redlining in its self-designated service area in Memphis, Tennessee and discriminated on the basis of race, color, or national origin.
- 2/13/2024 – Order against First National Bank of Pennsylvania, as successor to Yadkin Bank (\$45.8 billion) – alleged unlawful redlining in Charlotte and Winston-Salem, NC markets
 - located and maintained nearly all of its branches and mortgage loan officers outside of majority-Black and Hispanic neighborhoods
 - relied on mortgage loan officers concentrated in majority-white areas as the primary source of new loan applications,
 - maintained inadequate internal fair lending policies and procedures to ensure that the bank was positioned to provide equal access to majority-Black and Hispanic neighborhoods.

Community Reinvestment Act (CRA) Final Rules

Current Evaluation Framework

Large Banks

Assets of at least \$1.564 billion as of December 31 of both of the prior two calendar years

Lending Test*
50%

Investment Test
25%

Intermediate Small Banks

Assets of at least \$391 million as of December 31 of both of the prior two calendar years and less than \$1.564 billion as of December 31 of either of the prior two calendar years

Lending Test
50%

Community Development Test

Small Banks

Assets less than \$391 million as of December 31 of either of the prior two calendar years

Lending Test

Optimization of investment

Wholesale and Limited Purpose Banks

Community Development Test

New Evaluation Framework

Large Banks

Assets of at least \$2 billion as of December 31 of both of the prior two calendar years

Retail Lending Test

Retail Services and Products Test

CD Financing Test

CD Services Test

Intermediate Banks

Assets of at least \$600 million as of December 31 of both of the prior two calendar years and less than \$2 billion as of December 31 of either of the prior two calendar years

Retail Lending Test

Existing CD Test
CD Financing Test

Retail Lending Test and existing CD test OR opt into CD Financing Test

Small Banks

Assets less than \$600 million as of December 31 of either of the prior two calendar years

Small Bank Lending Test

Retail Lending Test

Existing lending test or opt into Retail Lending Test

Limited Purpose Banks

CD Financing Test for Limited Purpose Banks

* Lending Test includes retail lending and community development lending; Service Test includes retail banking services

Consumer Finance Monitor

CFPB, Federal Agencies, State Agencies, and Attorneys General

Consumer Finance Monitor Podcast Episodes

We have released two Consumer Finance Monitor podcast episodes focused on the Final Rules: “Community Reinvestment Act reform: a close look at the final rule” and “A look at the joint Community Reinvestment Act proposal issued by the OCC, FDIC, and Federal Reserve Board,” click [here](#) and [here](#) to listen to the episodes.

[Home](#) » [TX Federal Court Enjoins Enforcement Of CRA Final Rules Against Plaintiffs](#)

TX federal court enjoins enforcement of CRA final rules against plaintiffs

By **Kristen E. Larson, Scott A. Coleman & Sarah B. Dannecker** on April 2, 2024

POSTED IN [FDIC](#), [FEDERAL RESERVE BOARD](#), [LITIGATION AND COURT DECISIONS](#), [OCC](#), [REGULATORY AND ENFORCEMENT](#)

On February 5, 2024, several national and Texas banking and business trade groups (Plaintiffs) filed a [lawsuit](#) challenging the [final regulations](#) (Final Rules) implementing the Community Reinvestment Act of 1977 (CRA) that were jointly adopted in October 2023 by the Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, and Federal Reserve Board (Agencies). Four days

*I particularly enjoyed the podcast with special guest **Kenneth Thomas, President of Community Development Fund Advisors, LLC***

CFPB News

In 2023, the CFPB filed **29 enforcement actions** and resolved through final orders 6 previously-filed lawsuits. Those orders require lawbreakers to pay approximately \$3.07 billion to compensate harmed consumers and pay approximately \$498 million in civil money penalties.

...

Growing our capacity in 2023 and the year ahead

And our work doesn't stop there. The CFPB recently announced that we are significantly expanding our enforcement capacity in 2024 to build on our achievements so far. These positions include enforcement attorneys as well as non-attorney positions, including analysts, paralegals, e-litigation support specialists, economists, and more. These roles are located in our Washington, D.C. headquarters, and for many, in our regional offices in San Francisco, New York, Chicago, and Atlanta.

Source: <https://www.consumerfinance.gov/about-us/blog/the-cfpbs-enforcement-work-in-2023-and-what-lies-ahead/>

CFPB Actions & Litigation

- May 16, 2024: SCOTUS determines CFPB funding is constitutional
 - Payday lending rule – date indeterminate
 - Credit Card Penalties Fee Final Rule, issued 3/15/2024 – stayed
- Proposed rule with request for comment NSF fees for instantaneously declined transactions, issued 1/24/2024
- Proposed rule with request for comments on Consumer Reporting concerning Medical Information (Regulation V), issued 6/11/2024
- Proposed streamlined mortgage servicing rules, issued 7/10/2024 – stops dual tracking, limits fees, reduces delays, improves communications, required information in languages they understand
 - Small services (5,000 or less) are still exempt
- Proposed Earned Wage Access regulations, issued 7/18/2024
- Final Rule requiring QC standards for AVM, issued 8/7/2024 (Interagency) eff 10/1/2025

1071 Small Business Lending Rule

- Final rule issued 12/1/2023
- Immediately challenged on constitutionality of funding (see prior slide) and claims of violating the APA
- August 26, 2024 – U.S. District Judge Randy Crane, in McAllen Texas, rejected bank industry-backed challenge – “It may well be that the final rule proves ill-advised as a policy matter, but that possibility does not itself make the final rule unlawful..”

Final Rule contents

- .101 Purpose & Scope
- .102 Definitions
- .103 Covered applications
- .104 Covered credit transactions and excluded transactions
- .105 Covered financial institutions and exempt institutions
- .106 Business and small business
- .107 Compilation of reportable data
- .108 Firewall
- .109 Reporting of data to the Bureau
- .110 Publication of data and other disclosures
- .111 Recordkeeping
- .112 Enforcement
- .113 Severability
- .114 Effective date, compliance date, and special transition rules

§1002.114 Institutional Coverage and Compliance Dates

Whether you are subject to the rule in any given year depends on whether you made 100 or more covered originations in each of the prior 2 calendar years

- Asset size, and location in MSA are not relevant
- Once you meet the thresholds you immediately become subject to that tier's effective date below, or January 1 of the following year, whichever is later
- You are allowed to begin collecting data 12 months prior to compliance date, however, you must collect business status and principal owner data, and comply with other substantive provisions (except that reporting the data is optional)

Rule Effective Dates:

Tier 1 = July 18, 2025 - made at least **2,500** covered originations in 2022 and 2023 (or 2023 and 2024)

Tier 2 = January 16, 2026 - made at least **500** but less than 2,500 covered originations in 2022 and 2023 (or 2023 and 2024).

Tier 3 = October 18, 2026 - made at least **100** covered originations in 2022 and 2023 (or 2023 and 2024, or 2024 and 2025)

Collected data is submitted by June 1 of the following year.

§1071 (g)(2): EXCEPTIONS.—
The Bureau, by rule or order, may adopt exceptions to any requirement of this section and may, conditionally or unconditionally, exempt any financial institution or class of financial institutions from the requirements of this section, as the Bureau deems necessary or appropriate to carry out the purposes of this section.

§1002.104 Covered originations for determining compliance date

A “covered credit transaction” was that **made** by the FI

- An extension of business credit, that is not otherwise excluded...
 - “Designated” as business purpose, not “personal” or “consumer”
 - Includes “refinancings” as defined by TILA
 - Loans or participations purchased are excluded
 - HMDA-reportable loans are excluded, whether you are a HMDA reporter or not. (In other words, do not include permanent loans that are secured by a dwelling for the purpose of home purchase, home improvement, or refinance, but DO count temporary, bridge, or other short-term loans (CFPB FAQ Institutional coverage #8))
- ...to a “small business”
 - A business concern with \$5 million or less in gross annual revenue (GAR) for its prior fiscal year
 - Revenue threshold adjusts every 5 years
 - Excludes non-profits and governmental entities, by definition
 - Includes sole proprietorships
 - Can rely on applicant’s representations of GAR, but if you verified that GAR you must use the verified/updated value

For institutional coverage:

- Do not count applications that were not originated
- Do not count renewals, modifications or extensions - even if new money was advanced

§1071 Data to be collected

1. application number
2. date application received
3. type of credit
4. purpose of credit
5. amount applied for
6. amount approved
7. type of action taken
8. date of action taken
9. census tract
10. business GAR
11. race, sex, and ethnicity of the principal owners
12. any additional data that the Bureau determines would aid in fulfilling the purposes of this section.

§1002.017 Additional data points

1. application method
2. application recipient
3. type of guarantees
4. loan term
5. denied reasons
6. pricing information:
 1. Fixed interest rate; or margin, index, initial rate period, index name
 2. Total origination charges
 3. Broker fees
 4. Initial annual charges
 5. Additional costs for merchant or sales-based financing
 6. Prepayment penalties
7. NAICS code
8. number of workers
9. time in business
10. business minority-owner, women-owned or LGBTQI+ status
11. ethnicity, race and sex of the principal owners
12. number of principal owners

FI can reuse previously collected data for items in blue that were collected within 36 months prior to the current application, or for GAR that was collected within the same calendar year as the current application, and for which the FI has no reason to believe the data are inaccurate

§1002.107 Time and manner of collection/discouragement

- (b) In most cases, FI may rely on information from the applicant, or appropriate third-party sources, when compiling data. If the financial institution verifies applicant-provided data, however, it shall report the verified data
- (c) FI shall not discourage an applicant from responding to requests for applicant-provided data and shall otherwise maintain procedures to collect such data at a time and in a manner that are reasonably designed to obtain a response, which requires:
 - i. initial request occurs prior to notifying applicant of final action taken
 - ii. request is prominently displayed or presented
 - iii. the collection does not have the effect of discouraging an applicant from responding to a request for applicant provided and
 - iv. applicants can easily respond to request
- (d) FI shall maintain procedures to identify and respond to indicia of potential discouragement, including low response rates for applicant-provided data

Grace Period - Policy Statement

- 88 FR 35458
- 12-month grace period for CFPB supervised institutions
- Does not intend to exercise CFPB enforcement and supervisory authorities, assuming good faith compliance efforts by financial institutions
- Allows time to diagnose and address unintentional errors
- Will only require resubmission for material errors
- Does not intend to assess penalties
- Attempts to discourage applicants from providing data would not be in good faith



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Join a Saltmarsh LOS User Group or 1071 Study Group for virtual networking and best practices!

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