



RISK ADVISORY

# Regulatory Compliance Digest

## Q1 2025

The Regulatory Compliance Digest's Q1 issue provides a summary of the latest updates from FinCEN, CFPB, FDIC, OFAC and federal bank regulatory agencies. This issue also includes hot topics in the regulatory compliance space and guidance on how financial institutions can prepare for upcoming compliance challenges.

The [Regulatory Compliance Digest](#) is intended to keep you informed of regulatory changes in advance of their effective date, so your institution can evaluate changes or updates to necessary policies, procedures and processes in place to be compliant at the time of enactment.

## Prepare for Expedited Funds Availability Changes

On May 13, 2024, the Consumer Financial Protection Bureau (the Bureau) and the Federal Reserve Board (the Board) jointly announced a [final rule-making cost of living adjustment \(COLAs\)](#) for the Regulation CC funds availability rules. They are required by the Expedited Funds Availability Act to make these dollar adjustments every five years. These adjustments will only increase in \$25 increments effective July 1, 2025. The next dollar amount adjustment will occur on July 1, 2025, and again every five years thereafter.

Although the effective date is months away, there are preparations that need to be made in advance of that date. Adjustments to the Regulation CC thresholds that will impact financial institutions as a result of this amendment include:

- ▶ **Minimum amount for next-day availability:** The minimum amount of certain deposits that banks must make available for withdrawal on the next business day will increase from \$225 to \$275.
- ▶ **Cash withdrawal amount:** The amount that must be made available to the customer despite a one-business-day hold for withdrawals by cash or similar means will increase from \$450 to \$550.
- ▶ **New-account amount:** The amount of funds deposited by certain checks in a new account that are subject to next-day availability will increase from \$5,525 to \$6,725.
- ▶ **Large deposit exception hold:** The threshold for using an exception to the funds-availability schedules if the aggregate amount of checks on any one banking day exceeds the threshold amount will increase to \$6,725 from the current \$5,525.
- ▶ **Repeat overdraft exception hold:** The threshold for an account has been repeatedly overdrawn will increase to \$6,725 from the current \$5,525.
- ▶ **Civil liability amount:** The civil liability amounts of \$1,100 and \$552,500 will be adjusted to \$1,350 and \$672,950, respectively.

It is imperative to implement an action plan now to meet the July 1st effective date. The action plan should detail the changes needed, assign responsibility for each change and establish a detailed timeline to ensure compliance. When finalizing your action plan checklist, here are a few items to consider:

- ▶ **Regulatory impact analysis:** Perform an assessment of the impact. Its impact may be limited for financial institutions with next-day availability or based on your exception and case-by-case hold policies.

- ▶ **Risk assessment:** Update your compliance and departmental risk assessments if you are a financial institution impacted by the extended coverage provisions or any changes to the current process.
- ▶ **Systems:** Work with your third-party provider to ensure that system changes are scheduled and that the provider will meet the deadline for such changes.
- ▶ **Policies and procedures:** Ensure that policies and procedures are updated based on the results of the risk assessment and the changes to the threshold amounts.
- ▶ **Training:** Schedule training for front line, call center, deposit operations and compliance personnel concerning the changes. Not only should training address the regulatory change, but it should also address how the operations will shift as a result.
- ▶ **Consumer awareness:** Update signage and disclosures to ensure that the adjusted thresholds are incorporated. Ensure that old disclosures are removed from the system or, if preprinted, are destroyed. Review and update the following:
  - Lobby signage
  - Expedited funds availability and Regulation CC disclosure
  - Account agreement, if applicable
  - Hold notice language on preprinted and system-generated forms
  - Change in terms notice: As the changes benefit consumers by making more funds available to them sooner, the required change in terms notice must be provided no later than 30 days after the change, so by July 31, 2025. The final rule permits disclosure of the change by either 1) disclosure on or with the periodic statement or 2) as a full, revised notice.
- ▶ **Monitoring:** Revisions must be made to monitoring and internal audit programs to ensure proper controls are in place.

## Home Mortgage Disclosure (Regulation C) Adjustment to Asset-Size Exemption Threshold

On December 27, 2024, the Consumer Financial Protection Bureau (CFPB) [amended its official commentary interpreting requirements](#) of the CFPB's Regulation C to reflect the asset-size exemption threshold for banks, savings associations and credit unions based on the annual percentage change in the average of the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W). Based on the 2.9% average increase in the CPI-W for the 12-month period ending November 2024, the exemption threshold is adjusted to \$58 million from \$56 million. Institutions with assets of \$58 million or less as of December 31, 2024, are exempt from collecting data in 2025. This rule is effective on January 1, 2025.

## Truth in Lending Act (Regulation Z) Adjustment to Asset-Size Exemption Threshold

On December 23, 2024, the CFPB [amended the official commentary to its Regulation Z](#) to make annual adjustments to the asset-size thresholds exempting certain creditors from the requirement to establish an escrow account for a higher-priced mortgage loan (HPML). The exemption threshold for creditors and their affiliates that regularly extended covered transactions secured by first liens is adjusted to \$2.717 billion. The exemption threshold for certain insured depository institutions and insured credit unions with assets of \$10 billion or less is adjusted to \$12.179 billion. This rule is effective on January 1, 2025.

## Agencies Release Annual Asset-Size Thresholds Under Community Reinvestment Act Regulations

On December 19, 2024, the joint agencies announced the 2025 updated Community Reinvestment Act (CRA) [“small bank” and “intermediate small bank” asset-size thresholds](#).

The CRA regulations establish the framework and criteria by which the relevant agencies assess a financial institution’s record of meeting the credit needs of its entire community, including low- and moderate-income neighborhoods, consistent with safe and sound operations. Financial institutions are evaluated under different CRA examination procedures based on their asset-size classification. The asset-size thresholds are adjusted annually based on the average change in the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), which is a measure of inflation.

As a result of the 2.91% increase in the CPI-W for the period ending in November 2024, the CRA asset-size thresholds for small banks and intermediate small banks effective from January 1, 2025, through December 31, 2025, are:

- ▶ A small bank is an institution that, as of December 31 of either of the prior two calendar years, had assets of less than \$1.609 billion.
- ▶ An intermediate small bank is a small institution with assets of at least \$402 million as of December 31 of the prior two calendar years and less than \$1.609 billion as of December 31 of the prior two calendar years.

## CFPB Finalizes Rule To Protect Homeowners on Solar Panel Loans and Other Home Improvement Loans Paid Back Through Property Taxes

On December 17, 2024, the CFPB finalized a rule mandated by Congress that [applies existing residential mortgage protections to Property Assessed Clean Energy \(PACE\) loans](#). Homeowners use PACE loans for clean energy upgrades and disaster readiness, which are paid back through their property tax bills. Because of concerns about subprime-style lending that puts homeowners at risk of losing their homes, Congress required the CFPB to enhance protections. The rule will ensure that PACE borrowers have the right to receive standard mortgage disclosures that allow them to compare the cost of the PACE loan with other forms of financing, and the lender will be responsible for ensuring that the borrower is not set up to fail with an unaffordable loan.

## CFPB Closes Overdraft Loophole To Save Americans Billions in Fees

On December 12, 2024, the CFPB [closed an outdated overdraft loophole](#) that exempted overdraft loans from lending laws. The agency’s final rule on overdraft fees applies to the banks and credit unions with more than \$10 billion in assets that dominate the U.S. market. The reforms will allow large banks several options to manage their overdraft lending program: they can choose to charge \$5, to offer overdraft as a courtesy by charging a fee that covers no more than costs or losses, or continue to extend profit-generating overdraft loans if they comply with longstanding lending laws, including disclosing any applicable interest rate. The final rule is expected to add up to \$5 billion in annual overdraft fee savings to consumers, or \$225 per household that pays overdraft fees.

## Telemarketing Sales Rule

On December 10, 2024, the Federal Trade Commission [adopted amendments to the Telemarketing Sales Rule](#) (“TSR” or “Rule”) that extend the Rule’s applicability to inbound telemarketing calls in response to an advertisement through any medium or direct mail solicitation in which technical support products or services are offered for sale. The amendments are effective January 9, 2025.

## Updated Questions and Answers Related to the FDIC's Part 328 Final Rule

On December 3, 2024, the Federal Deposit Insurance Corporation (FDIC) [issued an updated Q&A](#) on the FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo final rule (12 CFR Part 328).

## Beneficial Ownership Information Alert

On December 27, 2024, Financial Crimes Enforcement Network (FinCEN) [issued an alert regarding the BOI requirements](#) as follows:

**"In light of a recent federal court order, reporting companies are not currently required to file beneficial ownership information with FinCEN and are not subject to liability if they fail to do so while the order remains in force. However, reporting companies may continue to voluntarily submit beneficial ownership information reports."**

## Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA and Qualified Mortgages)

On November 21, 2024, the CFPB [issued a final rule amending the regulation text and official interpretations for Regulation Z](#), which implements the Truth in Lending Act (TILA). The CFPB calculates the dollar amounts for provisions in Regulation Z annually; this final rule revises the amounts for provisions implementing TILA and its amendments, including the Home Ownership and Equity Protection Act of 1994 (HOEPA), and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). The CFPB adjusts these amounts based on the annual percentage change of the Consumer Price Index (CPI) effective June 1, 2024. This final rule is effective January 1, 2025.

Specifically, for open-end consumer credit plans under TILA, the threshold that triggers requirements to disclose minimum interest charges will remain unchanged at \$1.00 in 2025. For HOEPA loans, the adjusted total loan amount threshold for high-cost mortgages in 2025 will be \$26,968. The adjusted points-and-fees dollar trigger for high-cost mortgages in 2025 will be \$1,348.

For qualified mortgages (QMs) under the General QM loan definition in § 1026.43(e)(2), the thresholds for the spread between the annual percentage rate (APR) and the average

prime offer rate (APOR)<sup>1</sup> in 2025 will be: 2.25 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to \$134,841; 3.5 or more percentage points for a first-lien covered transaction with a loan amount greater than or equal to \$80,905 but less than \$134,841; 6.5 or more percentage points for a first-lien covered transaction with a loan amount less than \$80,905; 6.5 or more percentage points for a first-lien covered transaction secured by a manufactured home with a loan amount less than \$134,841; 3.5 or more percentage points for a subordinate-lien covered transaction with a loan amount greater than or equal to \$80,905; or 6.5 or more percentage points for a subordinate-lien covered transaction with a loan amount less than \$80,905.

For all categories of QMs, the thresholds for total points and fees in 2025 will be 3% of the total loan amount for a loan greater than or equal to \$134,841; \$4,045 for a loan amount greater than or equal to \$80,905 but less than \$134,841; 5% of the total loan amount for a loan greater than or equal to \$26,968 but less than \$80,905; \$1,348 for a loan amount greater than or equal to \$16,855 but less than \$26,968; and 8% of the total loan amount for a loan amount less than \$16,855.

## Defining Larger Participants of a Market for General-Use Digital Consumer Payment Applications

On November 21, 2024, the CFPB issued a final rule to [define larger participants of a market for general-use digital consumer payment applications](#). Larger participants of this market will be subject to the CFPB's supervisory authority under the Consumer Financial Protection Act (CFPA). A nonbank-covered person qualifies as a larger participant if it: (1) facilitates an annual covered consumer payment transaction volume of at least 50 million transactions as defined in the rule, and (2) is not a small business concern.

## Required Rulemaking on Personal Financial Data Rights

On October 22, 2024, the CFPB issued a [final rule to carry out the personal financial data rights](#) established by the Consumer Financial Protection Act of 2010 (CFPA). The final rule requires banks, credit unions, and other financial service providers to [make consumers' data available upon request](#) to consumers and authorized third parties in a secure and reliable manner; defines obligations for third parties accessing consumers' data, including important privacy protections; and promotes fair, open, and inclusive industry standards.

## Beneficial Ownership Information FAQ Update

On November 18, 2024, FinCEN prepared another [update to its Frequently Asked Questions \(FAQs\)](#) in response to inquiries received relating to the Beneficial Ownership Information Reporting Rule and Beneficial Ownership Information Access and Safeguards Rule.

## CFPB Finalizes Personal Financial Data Rights Rule

On October 22, 2024, the CFPB finalized a rule to give [consumers greater rights, privacy, and security over their personal financial data](#). The rule requires financial institutions, credit card issuers, and other financial providers to unlock an individual's personal financial data and transfer it to another provider at the consumer's request for free. Consumers can more easily switch to providers with superior rates and services. By fueling competition and consumer choice, the rule will help lower prices on loans and improve customer service across payments, credit and banking markets.

Compliance with the rule will be implemented in phases, with larger providers subject to the rule sooner than smaller ones. Financial firms will be required to comply based on their size; the largest institutions will have to comply by April 1, 2026, while the smallest covered institutions will have until April 1, 2030. Certain small banks and credit unions are not subject to this rule.

## FDIC Extends Compliance Date for Subpart A of the FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo

On October 17, 2024, The FDIC announced that it is providing financial institutions additional time to get new process and systems in place by [extending the compliance date for the new FDIC signage and advertising rule](#) from January 1, 2025, to May 1, 2025. The extension applies only to a portion of the final rule designed to modernize the rules governing the use of the official FDIC signs and advertising statements – Part 328, subpart A.

The compliance date related to misrepresentations of deposit insurance coverage, subpart B of Part 328, remains January 1, 2025. The final rule, "FDIC Official Signs and Advertising Requirements, False Advertising, Misrepresentation of Insured Status, and Misuse of the FDIC's Name or Logo," was approved by the FDIC Board in December 2023.

## Agencies Announce Dollar Thresholds for Smaller Loan Exemption from Appraisal Requirements for Higher-priced Mortgage Loans

On October 4, 2024, the CFPB, the Federal Reserve Board, and the Office of the Comptroller of the Currency (OCC) today announced that the [2025 threshold for higher-priced mortgage loans that are subject to special appraisal requirements](#) will increase from \$32,400 to \$33,500.

The threshold amount will be effective January 1, 2025, and is based on the 3.4% annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, known as CPI-W, as of June 1, 2024.

The Dodd-Frank Act added special appraisal requirements for higher-priced mortgage loans to the Truth in Lending Act. These include that creditors obtain a written appraisal based on a physical visit to the interior of the home before making a higher-priced mortgage loan. The rules implementing these requirements contain an exemption for loans of \$25,000 or less, adjusted annually to reflect CPI-W increases.

## CFPB Takes Aim at Double Billing and Inflated Charges in Medical Debt Collection

On October 1, 2024, the CFPB issued guidance to [prevent families from being targeted by illegal medical debt collection tactics](#). The advisory opinion clarifies that debt collectors, which may include third-party "revenue cycle management" companies, are violating federal law when they collect on inaccurate or legally invalid medical debts. These illegal practices include double-dipping to get paid for services already covered by insurance, hounding consumers to pay fake or exaggerated charges, misrepresenting consumers' rights to contest bills, and collecting on debts without documentation that the amount is actually owed. The CFPB's action aims to protect consumers from careless or predatory practices that can lead to inflated healthcare costs.

## FinCEN Renews Real Estate Geographic Targeting Orders

On October 15, 2024, the FinCEN [announced the renewal of its Geographic Targeting Orders](#) (GTOs) that require U.S. title insurance companies to identify the natural persons behind shell companies used in non-financed purchases of residential real estate.

The terms of the GTOs are effective beginning October 16, 2024, and ending on April 14, 2025. The GTOs continue to provide valuable data on the purchase of residential real estate by persons possibly involved in various illicit enterprises. Renewing the GTOs will further assist in tracking illicit funds and other criminal or illicit activity, as well as continuing to inform FinCEN's regulatory efforts in this sector.

FinCEN renewed the GTOs covering certain counties and major U.S. metropolitan areas in California, Colorado, Connecticut, Florida, Hawaii, Illinois, Maryland, Massachusetts, Nevada, New York, Texas, Washington, Virginia and the District of Columbia.

The purchase price threshold remains \$300,000 for each covered metropolitan area, with the exception of the City and County of Baltimore, where it is \$50,000.

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## Have Questions?

If you would like to discuss any compliance matters for your institution, please contact your Cherry Bekaert Advisor or reach out to the Firm's Risk Advisory regulatory compliance team today.

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