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Q2+ Regulatory Updates & Risk Assessment Workshop

BankTalk 2026

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Final Rule - Small Business Lending Data Collection under ECOA

The final rule, among other things:

(1) Excludes merchant cash advances (MCAs), agricultural lending transactions, and transactions <$1,000 from the “covered credit transaction” definition;

(2) Excludes Farm Credit System (FCS) lenders from the “covered financial institution” definition;

(3) Raises the origination threshold from 100 to 1,000 covered credit transactions for each of two consecutive years starting with originations in 2026 and 2027 (or 2025 and 2026 if an institution chooses);

(4) Changes the gross annual revenue threshold in the rule's definition of small business from $5 million or less to $1 million or less;

(5) Removes discretionary data points including application method, application recipient, denial reasons, pricing information, number of workers, disaggregated ethnicity and race concerning principal owners, and LGBTQI+ owned status;

91 FR 23530, 5/1/2026

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Final Rule - Small Business Lending Data Collection under ECOA

(6) Revises and clarifies applicants right to refuse provisions; and

(7) Removes references to discouragement, deletes monitoring requirements, and revises the text and commentary related to flexibility for certain "time and manner" requirements.

The rule also confirms:

- A grace period of 12 months for institutions engaged in good faith compliance efforts.
- Keeps Firewall Provisions (Section 1002.108)
- Compliance Date is 1/1/2028 (begins collecting data)

91 FR 23530, 5/1/2026

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Final Rule - Substantive Changes to Implementing Regulation for ECOA - CFPB

The final rule amending the ECOA's implementing regulation (Reg B)

(1) Provides that ECOA does not authorize disparate impact claims or liability;

(2) Amends the prohibition on discouraging applicants or prospective applicants to clarify that it prohibits statements of intent to discriminate in violation of ECOA and is not triggered merely by negative consumer impressions, and to clarify that encouraging statements by creditors directed at one group of consumers is not prohibited discouragement as to applicants or prospective applicants who were not the intended recipients of the statements; and

(3) Amends the standards for SPCPs offered or participated in by for-profit organizations such that for-profit organizations are now prohibited from using race, color, national origin, or sex as eligibility criteria; and conditions the use of religion, marital status, age or the receipt of public assistance income, so that such use is allowed only if the for-profit organization provides evidence for each participant who receives credit through the program that in the absence of the program the participant would not receive such credit as a result of those specific characteristics.

Advisory Opinion on SPCPs, *Rescinded* – CFPB

[91 FR 21620, 4/22/26]

Effective Date 7/21/26

Removal of Reference to Reputation Risk in Exam Manuals and Handbooks – OCC and FDIC

The OCC and FDIC final rule codifies the removal of reputation risk from their supervisory programs.

Bars the agencies from pressuring institutions to deny or alter services based on a person's political, social, cultural, or religious views, protected speech, or lawful but disfavored activities.

Prohibits taking supervisory or adverse actions to punish or discourage such lawful expression or activities.

Reputation risk is defined in the rule as any risk "… that an action or activity, or combination of actions or activities, or lack of actions or activities, of an institution could negatively impact public perception of the institution for reasons not clearly and directly related to the financial or operational condition of the institution."

NCUA and FRB both have related proposals.

91 FR 18279, 4/10/26

Effective 6/9/26

Statement on Ability to Repay and Immigration Status - CFPB

“Guidance” to remind creditors that when determining repayment ability under Reg. Z/TILA, creditors relying on an individual's income derived from U.S.-based employment are permitted, and may, under certain facts and circumstances, be obligated to consider information that bears on the consumer's underlying and continuing ability to earn income, when residency in the US is a necessary component of such employment.

Where a change “cannot be reasonably anticipated” from the application and relevant records, the change need not be considered. Except for stating that ITINs are an atypical identification method typically issued to persons who lack proof of legal residency thus increasing **removal risk**, the guidance provides no detail on situations in which a creditor would need to decline an application because of immigration status.

91 FR 34607, 6/8/26
Effective 6/8/26

Guidance on Lending to Individuals Not Legally Authorized to Work in the U.S. – FDIC, OCC, NCUA

The FDIC, OCC, and NCUA (not FRB) have issued Interagency Guidance reminding supervised financial institutions of their existing credit risk management obligations. The guidance specifically addresses borrowers who are not legally authorized to work in the U.S.

- From a consumer compliance perspective, the guidance simply highlights the CFPB's 6/8/26, Statement on Ability to Repay and Immigration Status, and does not provide further detail as to how to navigate the tension between ability to repay (Reg. Z) and fair lending obligations against immigration-status compliance obligations.

FIL-36-2026, 2026-57, 7/13/26
Effective 7/13/26

Supervisory Guidance on Multiple Re-Presentment NSF Fees, Rescinded - FDIC

Based on a review and assessment of the guidance in FIL-32-2023, the FDIC concludes that the guidance is overly broad in scope and has raised uncertainty regarding when, for instance, disclosures regarding re-presentments may result in unfairness concerns under Section 5 of the Federal Trade Commission Act.

FIL-14-2026, 4/10/26
Effective 4/10/26

Notice - Uniform Financial Institutions Rating System - FFIEC

Currently, financial institutions are assigned a CAMELS component and composite ratings on a scale of 1 to 5. Capital Adequacy, Asset Quality, Management, Earnings, Liquidity, and Sensitivity to Market Risk.

The proposal would:

- Emphasize consideration of material financial risks over concerns related to policies, procedures, and documentation, thus helping to ensure that ratings accurately reflect the issues most likely to impact safety and soundness.
- Eliminate “special consideration” to the Management component and remove factors related to Management depth and succession, responsiveness to recommendations from auditors and supervisory authorities, and demonstrated willingness to serve the legitimate banking needs of the community, to focus on the most material aspects of risk management.
- Revise definitions of composite ratings and descriptions of components and clarify evaluation factors.

91 FR 29128, 5/19/26

Comments due 8/17/26

New Enforcement Principles - CFPB

Announced by the CFPB on May 29, 2026, and published directly on the CFPB's website, the agency identified four Enforcement Principles to guide when the agency will and won't bring an enforcement action.

(1) Addressing Actual Harm to Consumers: "When an institution violates the law and causes real and meaningful harm to consumers, the CFPB uses its enforcement authority to ensure that violations are remedied and consumers are made whole."

(2) Due Process: Enforcement actions rooted in a clear grant of statutory authority or a regulation promulgated through notice and comment. No "novel" interpretations or advancing policy agenda through enforcement actions.

(3) Collaboration: Collaborate with institutions to remedy legal violations voluntarily and make consumers whole for any harm they have suffered. Institutions who self report violations will not be unnecessarily punished for their candor and willingness to proactively address problems. This approach avoids years waiting years for the resolution of litigation.

(4) Efficiency: Maximizing resources and operating efficiently. The CFPB will refrains from engaging in duplicative enforcement work. Will not pursue an enforcement action where the states or other regulators are better suited to do so.

https://www.consumerfinance.gov/enforcement/enforcement-principles/

Hang On for a Ride! Notable Items in the Rule Making Agenda - CFPB

Nine in the final rule stage including:

- Interim Final Rule to rescind protections for borrowers affected by COVID-19 under RESPA (interim rule issued 5/16/25);
- A narrowly tailored amendment to certain remittance transfer disclosure requirements in Reg E (see proposal);
- Rulemaking to streamline mortgage servicing rules (see proposal);

Nine in the proposed rule stage including:

- Rulemaking to address the use of contingency calculations to determine APOR values in instances when the CFPB does not publish weekly APOR tables;
- A rule that would require periodic reviews of CFPB regulations;
- Regulations to ensure the CFPB issues guidance documents through fair and responsible procedures;
- Rulemaking to reconsider the November 2024 final rule related to personal financial data rights;
- Rulemaking to reconsider certain aspects of the 2017 rule related to payday, vehicle, title, and certain high-cost installment loans;

Three in the pre-rule stage:

- Further assessment to address whether amendments to the 2016 rule related to prepaid accounts under Reg. E and Reg. Z are necessary;
- Further assessment to address whether adjustments to ATR requirements and QM definitions are warranted;
- Rulemaking to clarify the statutory language with respect to unfair, deceptive, or abusive acts and practices under section 1031 of the DFA.

Reginfo.gov

Proposed Rule – Updating Reg. O Thresholds – FDIC and FRB

The FDIC and the FRB have each issued substantially similar proposals to increase quantitative thresholds for certain extensions of credit to insiders of FDIC-supervised and FRB-supervised institutions.

- Increase the thresholds for certain extensions of credit to executive officers by statute from $100,000 to $400,000; and extensions of credit to insiders requiring prior approval by the board of directors from $500,000 to $2 million.
- Both proposals would retain the 2.5% and 5% “lower of” thresholds based on unimpaired capital and unimpaired surplus, respectively.
- The proposals would also establish an indexing methodology to update such thresholds every 5 years.

FDIC - 91 FR 50730
FRB - 91 FR 49526
Comments due 10/5/26

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Notice of Proposed Rulemaking – CRA

- FDIC and OCC only

Current		Proposed		Notes
Small	<$412M	Small	<$1B	Tailored Lending test remains
ISB	$412 - <$1.649B	Intermediate	$1B - $10B	Tailored Lending and CD tests remains
Large	$1.649B	Large	>$10B	Lending, Investment and Service tests remain

- No changes to Assessment Area delineations
- Leveraging technology to modernize the availability of a bank's CRA public notice and file
- Intermediate Bank can receive a Satisfactory or Outstanding rating if it receives at least a Satisfactory on the lending test

https://www.fdic.gov/news/financial-institution-letters/2026/fdic-and-occ-seek-public-comment-joint-notice-proposed

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Notice of Proposed Rulemaking – CRA

- Modify how the agencies consider retail banking services to focus on lending.
  - Excluding deposit services
  - Focusing on Major Product Lines (Small, Intermediate and Large banks)

Type	$ Loans	# Loans
Home Mortgage	**$25M**	**150**
Small Business	$18M	175
Small Farm	$10M	45
	25+18+10 = 53 **25**/53 = 47.2%	**150**+175+45 = 370 **150**/370 = 40.5%
	47.2+40.5 / 2 = 43.9% Home mortgage's share of retail lending	

https://www.fdic.gov/news/financial-institution-letters/2026/fdic-and-occ-seek-public-comment-joint-notice-proposed

Notice of Proposed Rulemaking – CRA

- **Major revisions to Community Development activities**
  - Codifying an illustrative list of CD activities that do and do not qualify for CRA credit and providing a process to confirm that activities qualify as community development;
  - Clarifying the components of the principles-based definition of community development
  - Explaining more clearly when a bank may receive consideration for CD activities at the bank-, State-, and multistate metropolitan statistical area-level; and
  - New definition and category for community development grants and new restrictions
    - Recipient directly uses funds for a program, project or initiative with a primary purpose of CD
    - Benefits bank's AA
- Modifying the strategic plan framework so it is a more viable and less burdensome option for banks.

https://www.fdic.gov/news/financial-institution-letters/2026/fdic-and-occ-seek-public-comment-joint-notice-proposed

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Risk Assessment Workshop

- Basics of Risk Assessments
- Our gifts to you (refer to Risk Assessment Template provided)
- Get your notepads out
- Put on your thinking caps
- Let’s Go!

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Key Elements of a Regulatory Risk Assessment

Scope	Define what the assessment covers: time horizon, applicable laws, business units, products, geographies
Regulatory Universe	Create and maintain a comprehensive list of applicable laws and regulations, supervisory guidance, etc.
Risk Identification	Identify inherent compliance risk in activities such as: Products/services, customer segments, delivery channels, operational processes
Inherent Risk Assessment	Evaluate the level of risk **before controls**. Typical factors: Volume, complexity, regulatory scrutiny, customer impact, change in products, systems, markets
Control Identification & Evaluation	Identify controls designed to mitigate risks: Policies, procedures, training, monitoring, testing, system controls, mgmt. oversight (accountability, reporting, escalation)
Residual Risk Determination	Residual Risk = Inherent Risk – Control Risk
Risk Rating & Direction	Assign final risk ratings and rank them: High residual → immediate attention, Moderate → monitoring & improvements, Low → routine oversight
Issue Identification & Gap Analysis	Highlight: Control weaknesses, regulatory gaps, emerging risks
Action Plans / Remediation	Define: Corrective actions, responsible owners, timelines, success metrics

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Key Elements of a Regulatory Risk Assessment

Documentation & Reporting	Product clear, auditable documentation: Methodology, risk ratings & rationale, mgmt. summaries, board-level reporting
Governance & Oversight	Ensure: Senior mgmt. review, board or committee reporting, three lines of defense alignment (business, compliance, audit)
Monitoring & Continuous Improvement	Not a one and done thing! Update for items such as regulatory changes, new products, M&A activity, findings from audit/exams
Data & Analytics Integration	Don't forget to incorporate: Complaints data, KRIs, volume, results form monitoring, testing and exams

TIPS – Don't forget to include

- Specific controls
- System controls
- Volume of products or activities (not just balance sheet as of a certain date, but **transaction volume for the period**)
- Findings (internal monitoring, audit, external reviews, exams)
    - This goes to the **effectiveness** of the identified controls
- Known upcoming events or changes

TIPS – Make sure

- Monitoring activities match the risk
    - Not just overall but the specific risk identified
- Address gaps – by either accepting or adjusting policy, procedures, etc.

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