



VOL. VII, No. 36, OCTOBER 10, 2011

On the Compliance Horizon


A look at upcoming issues

Dodd-Frank Act developments are tagged  DFA.

Meetings and Events

- **October 26:**  DFA [CFPB Town Hall Meeting: Meet us in Minnesota](#)

Mandatory Compliance Dates

- **January 1, 2012 :** [Annual Adjustment of Fee-based Trigger for HOEPA Loans](#)
-  DFA [Annual Adjustment of Dollar Threshold for Exempt Consumer Credit and Lease Transactions](#)

Comment Due Dates

- **October 11:**  DFA [Retail Foreign Exchange Transactions](#)
- **November 15:** [FinCEN Proposes Mandatory E-Filing by June 2012](#)
- **November 18:** [NACHA Request for Comment on Expedited Processing and Settlement](#)

Now That You Mention It

This Week's Survey

[Survey question](#) (Weeks of October 10 through October 17)

The last time your bank lost a chief compliance officer where did that person go?

[Survey Results for the Weeks of September 26 through October 3](#) 

From where did your bank recruit its current Chief Compliance Officer?



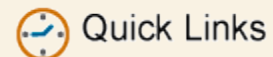
OCTOBER 11:
[Top-Level Domains \(".Bank"\) – A Brave New World Challenges and Opportunities Facing the Financial Services Industry](#)


NOVEMBER 8:
[Activist Regulatory Agencies - What are Your New Employment Risks?](#)




OCTOBER 15-21:
[ABA National Compliance School](#)

NOVEMBER 12:
[ABA BSA/AML Risk Assessment Workshop](#)



[Compliance Calendar](#) 

[2011 Regulatory Chart](#) 

[Final Rules Chart](#) 

| By Institution Size | Under \$200M | \$200-\$800M | \$800M-\$5B | Over \$5B | Totals |
|---|--------------|--------------|-------------|-----------|-------------------|
| From within the bank's existing compliance staff | 6 | 5 | 8 | 5 | 24 (16%) |
| From the bank's lending or retail operations | 13 | 16 | 8 | 1 | 38 (25%) |
| From elsewhere in the bank or holding company structure | 7 | 9 | 4 | 2 | 22 (15%) |
| From another bank | 7 | 19 | 9 | 7 | 42 (28%) |
| From a regulatory agency | 0 | 2 | 3 | 1 | 6 (4%) |
| From a consulting or law firm | 2 | 1 | 6 | 1 | 10 (7%) |
| Other | 4 | 1 | 2 | 1 | 8 (5%) |
| Total | 39 | 53 | 40 | 18 | 150 (100%) |

What's New in Review

The following stories were posted on the *What's New* section of the ABA's Center for Regulatory Compliance homepage during the past week. Stay informed by clicking on [ABA Compliance](#) every day.

REG Z

[The New Dollar Threshold for Regulation Z Coverage](#)

The Philadelphia Fed published a very helpful article on the DFA-mandated increase of dollar threshold for Regulation Z. The article includes a diagram that compliance officers will appreciate as a tool to determine whether Regulation Z applies.

CFPB CORDRAY NOMINATION

[Panel Approves Cordray Nomination; Confirmation Unlikely](#)

The Senate Banking Committee on October 6 approved by a 12-10 party-line vote the nomination of former Ohio Attorney General Richard Cordray to become director of the Consumer Financial Protection Bureau. He currently serves as the head of the CFPB's enforcement division. It is unlikely that the full Senate will act on Cordray's nomination anytime soon. "My colleagues and I stand by our pledge that no nominee to head the CFPB will be confirmed by the U.S. Senate — regardless of party affiliation — without basic changes to the Bureau's structure," Sen. Jerry Moran (R-Kan.) said October 6 in a joint statement with other Republican panel members.

CONGRESS

[Geithner Clarifies President's Remarks on Bank Profits](#)

Treasury Secretary Timothy Geithner on October 6 clarified that President Obama does not want to limit bank profits. Obama, commenting earlier last



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American Bankers Association,
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week on Bank of America's new \$5 monthly debit-card usage fee, told ABC News' George Stephanopoulos that banks "don't have some inherent right just to ... get a certain amount of profit" and that the fee was "exactly why we need this Consumer Finance Protection Bureau."

Geithner — who testified before both the Senate Banking and House Financial Services Committees on the Financial Stability Oversight Council's annual report to Congress, assured lawmakers that the president does not want to cap private profits but wants to improve oversight so that consumers can better understand their costs.

In related news, Geithner told the Senate Banking Committee that the Federal Housing Finance Agency in the next couple of weeks will issue a detailed proposal to allow more homeowners to refinance into loans with a lower interest rate. He also said the Financial Stability Oversight Council will meet Tuesday to consider a framework for determining which institutions are systemically important.

NATIONAL LABOR RELATIONS BOARD

Effective Date for Posting Right-to-Organize Notice Postponed

The National Labor Relations Board has postponed — to January 31, 2012 — the implementation date on its final rule requiring most private-sector employers to post a notice notifying employees of their rights under the National Labor Relations Act. The original effective date was November 14. The requirement applies to all private-sector employers subject to the act, which excludes agricultural, railroad and airline employers.

The notice says employees have the right to act together to improve wages and working conditions; to form, join and assist a union; to bargain collectively with their employer; and to refrain from any of these activities. It provides examples of unlawful employer and union conduct and instructs employees how to contact the NLRB with questions or complaints.

REGULATORS

Geithner Outlines Regulatory Streamlining Efforts

Treasury Secretary Timothy Geithner last week told Financial Services Committee Chairman Spencer Bachus (R-Ala.) that the administration is making a concerted effort to coordinate and streamline regulations among the agencies.

Republican committee members wrote to Geithner last month expressing concern that the increasing regulatory burden is hurting job creation, and they questioned whether the administration was keeping its promise to streamline and simplify regulations during the Dodd-Frank Act implementation.

"As agencies move forward with implementation of the Dodd-Frank Act, I will continue to encourage, as a top priority, interagency coordination and the development of rules that strike the right balance between financial stability and innovation," Geithner said in a letter. "As chairperson of the [Financial Stability Oversight Council], I have encouraged the development of rules that work together and avoid unnecessary overlap."

FIRST PREMIER VS. CFPB

DFA Bank Challenges Validity of Rule CFPB is Tasked with Enforcing

The Consumer Financial Protection Bureau (CFPB) has received its first opinion from a federal court regarding the validity of a rule it is tasked with enforcing. On September 23, 2011, the U.S. District Court for the District of South Dakota issued a preliminary injunction postponing the effective date of an amendment to § 226.52 of Regulation Z that was promulgated by the Federal Reserve but transferred to the CFPB on July 21, 2011. Amended §226.52 implements a provision of the Credit CARD Act of 2009 that limits the total fees (other than late fees, over-limit fees and returned item fees) that may be charged during the first year a credit card account is open to 25% of the account's initial credit limit. The Board's amendment to §226.52 prohibited not only fees charged to the account itself, but also fees charged directly to the consumer before the account was opened. The court, however, held that this interpretation impermissibly exceeded the authority granted by Congress and granted the preliminary injunction. For questions, contact ABA's [Virginia O'Neill](#) or [Nessa Feddis](#).

INTERCHANGE

DFA Joint Comment on Fed's Interim Rule on Debit Card Interchange Fees

In a joint comment letter, ABA and seven trade associations expressed general support to the Federal Reserve Board's Interim Final Rule to implement the fraud prevention adjustment provisions of Section 1075 of the Dodd-Frank Act, but offered suggestions. In the Interim Rule, the Federal Reserve has chosen to implement Section 920(a)(5) by allowing a covered issuer to receive an adjustment of no more than 1 cent per transaction (regardless of the form of the transaction) if it follows certain non-prescriptive fraud prevention guidelines. The associations suggested that the amount of the adjustment is insufficient to cover the true costs that issuers bear for fraud prevention.

"We believe that when these flaws in the Interim Rule's calculation of the fraud prevention adjustment amount are rectified, the appropriate amount would be at least 4 to 5 cents per transaction," ABA wrote. "We also note that these flaws are magnified by the fact that, although the Federal Reserve will review the appropriate amount of the fraud prevention adjustment every two years, any future adjustment the Federal Reserve makes to this amount will be inherently prospective, and thereby fail to capture prior lost costs..At a minimum, we urge the Federal Reserve to survey carefully issuers' fraud prevention costs and reconsider..." For questions, contact ABA's [Nessa Feddis](#).

FLOOD INSURANCE

House Passes Six-Week CR; Includes Flood Insurance Program Extension

The House on October 4 approved by a 352-66 vote a Senate-passed continuing resolution that will fund the federal government through November 18. The CR includes a provision that will extend the National Flood Insurance Program (NFIP) through November 18. That may give Congress enough time to pass pending legislation that would extend the NFIP for five years. The House on July 12 passed a bipartisan flood insurance reform bill (H.R. 1309) by a 406-22 vote that would reauthorize the NFIP for five years. The Senate Banking Committee on September 8 unanimously approved its version of five-year reauthorization legislation. The

full Senate still must pass the measure, which would have to be reconciled with the House version of the legislation.

Upcoming ABA Government Relations Staff Appearances

Midwest Trust and Wealth Management Conference

Cris Naser, *ABA Trust and Wealth Update*

Ann Arbor, MI — October 13, 2011

Tennessee Bankers Association, Trust & Wealth Management Conference

Tim Keehan, *Washington Legislative & Regulatory Update*

Nashville, TN — October 20, 2011

FIRMA Current Risk Issues Seminar

Cris Naser, *ABA Trust Update*

New York City, NY — October 26, 2011

EPCOR Fall Payments Conference

Steve Kenneally, *What in the World is Happening in Washington?*

Kansas City, MO — October 26, 2011

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