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## February First Half Developments

### Overview

The Bureau of Consumer Financial Protection has issued rules on remittance transfers that become effective next year. It should take that long to read the final rules. The Credit Union agency has issued some proposed rules that cover items that the real banking agencies have had in place for many years. Given what happened to the OTS, these bureaucrats have decided to spring into action. OFAC has issued a few notices regarding the heightened Iranian sanctions including preserving an exception for remittance transfers. The CFTC has issued a number of swap rules including one that has an interesting discussion attached by one of the Board members.

#### Credit Unions to Adopt Policies on Loan Workouts and Nonaccrual Loans

On February 1, 2012, the NCUA published a proposal to amend its regulations to require credit unions to maintain written policies that address the management of loan workout arrangements and nonaccrual policies for loans, consistent with industry practice or FFIEC requirements. See the proposed rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-01/html/2012-2206.htm>

#### Whistleblower Protections

On February 2, 2012, the BCFP published a notice alerting its employees to the whistleblower protections available to them as well as the antidiscrimination laws and the protections against retaliation. See the notice at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-02/html/2012-2280.htm>

#### Credit Unions to Adopt Policies on Interest Rate Risk

On February 2, 2012, the NCUA published a final rule requiring credit unions to develop and adopt a written policy on interest rate risk management and a program to effectively implement that policy, as part of their asset liability management responsibilities. NCUA issued a proposed

rule in March 2011 to require a written policy on IRR management. 76 FR 16570 (Mar. 24, 2011). See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-02/html/2012-2091.htm>

### Credit Unions Use of Financial Derivatives to Hedge Interest Rate Risk

On February 3, 2012, the NCUA issued an ANPR to request additional public comments to identify the conditions for federal credit unions (FCUs) to engage in certain derivatives transactions for the purpose of offsetting interest rate risk (IRR). See the notice at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-03/html/2012-2092.htm>

### Protections for Remittance Transfer Consumers

On February 7, 2012, the BCFP published its final rule amending Regulation E. The final rule provides new protections, including disclosures and error resolution and cancellation rights, to consumers who send remittance transfers to other consumers or businesses in a foreign country. The rule is effective next February 7, 2013. The Fed issued a Notice of Proposed Rulemaking in May 2011 76 FR 29902 (May 23, 2011). See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-07/html/2012-1728.htm>

### Definition of Remittance Transfer Provider

On February 7, 2012, the BCFP published a proposed rule amending Regulation E to create a safe harbor for certain Remittance Transfer Providers. The proposal requests comment on whether a safe harbor should be adopted with respect to the phrase "normal course of business" in the definition of "remittance transfer provider." This definition determines whether a person is covered by the rule. The proposal also requests comment on several aspects of the final rule regarding remittance transfers that are scheduled in advance, including preauthorized remittance transfers. See the proposed rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-07/html/2012-1726.htm>

### Protections for Customer Swap Contracts and Collateral

On February 7, 2012, the CFTC published its final rule to impose requirements on futures commission merchants and derivatives clearing organizations regarding the treatment of cleared swaps customer contracts (and related collateral), and make conforming amendments to the bankruptcy provisions applicable to commodity brokers under the Commodity Exchange Act. One member of the CFTC published a lengthy discussion on the limitations of the final rule although he voted to adopt the rule. The Commission on June 9, 2011, issued its proposed rule 76 FR 33818, June 9, 2011. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-07/html/2012-1033.htm>

### OFAC Amends Congo, Darfur and Cote d'Ivoire Rules

On February 8, 2012, OFAC published its final rule to add a definition of the term "financial, material, or technological support" as used in these regulations. Providing "financial, material, or technological support" for, inter alia, any person whose property and interests in property are blocked under those regulations constitutes one of the criteria for designation as a person whose property and interests in property are blocked. There was no proposed rule. See the final rules at:

<http://www.gpo.gov:80/fdsys/pkg/FR-2012-02-08/html/2012-2814.htm>

### BCFP Semiannual Regulatory Agenda

The agenda may be found at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-13/html/2012-1663.htm>

### FDIC Semiannual Regulatory Agenda

The agenda may be found at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-13/html/2012-1666.htm>

### Fed Semiannual Regulatory Agenda

The agenda may be found at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-13/html/2012-1667.htm>

### OFAC Notice on Iran General Licenses for Remittance Transfers

On February 13, 2012, OFAC published information regarding its licenses under the Iranian Sanctions and Presidential Order of February 5, 2012. On February 5, 2012, the President issued a new Executive Order Blocking Property of the Government of Iran and Iranian Financial Institutions. The new Executive Order blocks the property and interests in property of the Government of Iran, including the Central Bank of Iran, any Iranian financial institution, and any person owned or controlled by, or to have acted or purported to act for or on behalf of, directly or indirectly, any person whose property and interests in property are blocked pursuant to the new Executive Order. There were existing licenses that would have been blocked by this new order and OFAC issued this notice to preserve these licenses. In addition, OFAC has taken action to ensure that noncommercial, personal remittances may continue to flow to or from Iran. United States depository institutions and United States registered brokers or dealers in securities to process transfers of funds to or from Iran or for or on behalf of an individual ordinarily resident in Iran, in cases in which the transfer involves a noncommercial, personal remittance, subject to certain restrictions. See the notice at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-13/html/2012-3197.htm>

### CFTC Volcker Rule

On February 14, 2012, the CFTC published its proposed Volcker rule. The CFTC is adopting the entire text of the proposed common rules section from the Joint Release issued in November by the banking agencies. The CFTC is modifying the Joint Rule with CFTC-specific language. The CFTC Rule also contains additional questions specific to the CFTC. See the CFTC proposed rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-14/html/2012-935.htm>

### FinCEN requires AML programs and SARs from Nonbank Mortgage Lenders

On February 14, 2012, FinCEN published its final rule requiring nonbank residential mortgage lenders and originators to establish anti-money laundering programs and report suspicious activities under the Bank Secrecy Act effective April 16, 2012. FinCEN published a proposed rule on this subject on Dec. 9, 2010, at 75 FR 76677. See the proposed rule at:

<http://edocket.access.gpo.gov/2010/pdf/2010-30765.pdf>. The Final Rule does not require such lenders to comply with any other BSA reporting or recordkeeping regulations, such as currency transaction reports. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-14/html/2012-3074.htm>

### BCFP exempts extremely small banks from Collecting Reg C Data

On February 15, 2012, BCFP published a final rule exempting banks with less than \$41 million in assets from collecting home mortgage data under Regulation C. See the final rule at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-15/html/2012-3460.htm>

### OFAC Implements Sanctions on Iran against three Foreign Oil Companies

On February 15, 2012, OFAC gave notice that US financial institutions should not provide over \$10000000 in financing to three companies suspected of assisting the Iranian oil program. See the notice at:

<http://www.gpo.gov/fdsys/pkg/FR-2012-02-15/html/2012-3462.htm>

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