

[Banking and Finance Law Daily Wrap Up, WORTH NOTING—Other regulatory, legislative, litigation, and industry developments, \(Mar. 13, 2020\)](#)

Banking and Finance Law Daily Wrap Up

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By WK Editorial Staff

A weekly roundup of other items of interest to the banking and finance law community.

BANKING OPERATIONS—A group of state banking associations [jointly have written](#) to Sens. Mike Crapo (R-Idaho), Chair of the Senate Banking, Housing and Urban Affairs Committee and Sherrod Brown (D-Ohio), Ranking Member of the Committee, to express support for the SAFE Banking Act (S. 1200) and to encourage the Committee to markup and advance the legislation "as soon as possible." The bankers noted in the letter that they are not taking a stance on the legalization of marijuana but are writing because "our members are committed to serving the financial needs of their communities—including those that have voted to legalize cannabis." The associations urged the Senate to pass the bill stating that 33 states covering 68 percent of the nation's population have legalized cannabis for medical or adult-use, and this issue could appear on 10 state ballots this November. "Despite this ever-growing voter preference, current federal law continues to prevent banks from safely banking these businesses without fear of federal sanctions," the associations wrote.

BANK SECRECY ACT—The Financial Crimes Enforcement Network has assessed a \$450,000 [civil money penalty](#) against Michael LaFontaine, former Chief Operational Risk Officer at U.S. Bank N.A. for his failure to prevent violations of the Bank Secrecy Act during his tenure. LaFontaine admitted to his role in the BSA violations FinCEN said were committed by U.S. Bank, and he consented to the civil money penalty. According to [FinCEN](#), U.S. Bank used automated transaction monitoring software to spot potentially suspicious activity, but it improperly capped the number of alerts generated, limiting the ability of law enforcement to target criminal activity.

BANK SECRECY ACT—The Office of Foreign Assets Control is removing from the Code of Federal Regulations the Terrorism Sanctions Regulations at 31 CFR Part 595 as a result of the termination of the national emergency on which the regulations were based. The [final rule](#) implementing the change is effective March 10, 2020.

COMMUNITY DEVELOPMENT—The Federal Reserve Board has released a series of [Community Reinvestment Act Analytics Data Tables](#) that are intended to provide insight into the historical relationship between bank lending activity and regulatory assessments. The Fed [said](#) the tables combine Home Mortgage Disclosure Act data, CRA small business and small farm loan data, and manually extracted data from CRA performance evaluations. Bank attributes, deposit, branching, demographic, and other third-party vendor data supplement the tables.

COMMUNITY DEVELOPMENT—Comptroller of the Currency Joseph Otting and Operation HOPE Founder, Chairman, and Chief Executive Officer John Hope Bryant led a community tour of Memphis, Tenn., on March 6, 2020, to highlight successful examples of and opportunities for financing community reinvestment, economic revitalization, and financial empowerment. According to an OCC [release](#), the tour brought together more than 60 bankers and community leaders, including Memphis Mayor Jim Strickland, to discuss a proposed rulemaking that would modernize Community Reinvestment Act regulations. Comments on the proposed rule are due by April 8, 2020.

CREDIT, DEBIT AND GIFT CARDS—The European Commission has published a [study](#) on the application of the Interchange Fees Regulation (IFR) for card-based payment transactions. In April 2015, the European Parliament and Council adopted Regulation 2015/751 on interchange fees for card-based transactions. The IFR

caps interchange fees, introduces business rules and prohibits practices that create barriers such as territorial restrictions or the prevention of choice of payment brand or payment application. In September 2018, DG COMP contracted a study to collect market information and data on all relevant aspects of the application of the Regulation. The study found that the main objectives of the Regulation have been achieved, as the interchange fees for consumer cards have decreased by 35% between 2015 and 2017. This decrease has resulted in lower charges for retailers as well as benefits to consumers through lower retail prices. Furthermore, increased cross-border acquiring services and card transactions have led to a higher degree of market integration.

FINANCIAL TECHNOLOGY—The Inspector General for the Federal Housing Finance Agency has released a new white paper examining Fannie Mae and Freddie Mac's third-party risk management programs for the first two phases of the risk management life cycle—risk assessment and due diligence in third-party provider selection—for financial technology companies. The white paper, "[Enterprise Third-Party Relationships: Risk Assessment and Due Diligence in Vendor Selection](#)," found that the FHFA currently lacks the authority to regulate parties that provide services to the Enterprises, identified third-party oversight as a top risk, and believe that the FHFA is challenged to effectively oversee the Enterprises' management of risks related to their counterparties and third-parties.

GOVERNMENT SPONSORED ENTERPRISES—The Federal Housing Finance Agency has [announced](#) that it is strengthening the evaluation criteria of the Duty to Serve (DTS) Underserved Markets program through the [Evaluation Guidance](#) for Fannie Mae and Freddie Mac. The updated guidance will ensure the Enterprises' DTS programs have a significant impact in underserved communities.

LAW FIRM NEWS—Five attorneys have joined the firm [Armstrong Teasdale](#). Partner Crystal L. Howard and Associate Pamela J. Winter join in Kansas City, Mo.; Senior Counsel Sheri Kelly-Rabolt and Partner Kate T. Schroeffer join in Denver, Colo.; and Partner Untress Quinn joins the firm in St. Louis, Mo. Howard is from the firm's Corporate Services practice group and will continue advising clients on taxation and corporate matters. Kelly-Rabolt represents national and community banks, as well as finance companies, in real estate transactions and foreclosures. Quinn is a seasoned trial lawyer, focusing on the defense of medical malpractice and other catastrophic loss lawsuits in both state and federal court. Schroeffer focuses her practice on commercial finance transactions and has represented both lenders and borrowers. Winter handles a variety of civil litigation matters for insurance companies and corporations of all sizes.

LAW FIRM NEWS—Lori Sommerfield has joined [Ballard Spahr LLP](#) as of counsel in Minneapolis, Minn. Sommerfield has a background both as an attorney and a senior compliance risk officer for a major bank. She previously has held positions as in-house and outside counsel for both bank and nonbank clients, and she began her career as a staff attorney at the Federal Deposit Insurance Corporation in Washington, D.C. According to Ballard Spahr's release, Sommerfield helps clients manage consumer regulatory compliance issues and operational risk concerns and advises them about the federal and state consumer.

MORTGAGES—Washington Department of Financial Institutions has issued [interim regulatory guidance](#) for licensed mortgage loan originators to temporarily work remotely. Effective through June 5, 2020, a licensed mortgage loan originator must be able to access the company's secure origination system directly from any out-of-office device using a virtual private network or similar system that requires passwords or other forms of authentication to access. All security updates, patches, or other alterations to the devices security must be maintained and the originator must not keep any physical business records at any location other than the licensed main office. (kmb).

Attorneys: Lori Sommerfield (Ballard Spahr LLP). Crystal L. Howard, Pamela J. Winter, Sheri Kelly-Rabolt, Kate T. Schroeffer, and Untress Quinn (Armstrong Teasdale).

Companies: Fannie Mae; Freddie Mac; U.S. Bank N.A.

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