

[Banking and Finance Law Daily Wrap Up, WORTH NOTING—Other regulatory, legislative, litigation, and industry developments, \(Apr. 26, 2019\)](#)

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.

BANK SECRECY ACT—The Office of Foreign Assets Control is adding regulations to implement Executive Order of Sept. 12, 2018 ("Imposing Certain Sanctions in the Event of Foreign Interference in a United States Election"). The [final rule](#), which takes effect April 29, 2019, intends to supplement these regulations with a more comprehensive set of regulations, which may include additional interpretive and definitional guidance, general licenses, and statements of licensing policy.

CONSUMER CREDIT—Maryland legislation exempts credit services businesses from specified information statement requirements when the credit services business is engaged to obtain an extension of credit for a consumer. A credit service business must, however, provide information to a consumer regarding the consumer's right to file a complaint and to proceed against the bond filed with the Commissioner of Financial Regulation. In addition, a credit services business must provide the consumer with a copy of the contract between the credit services business and the consumer prior to the contract's execution. The law ([Ch. 88](#) takes effect Oct. 1, 2019).

CONSUMER FINANCIAL PROTECTION BUREAU—The Consumer Financial Protection Bureau will hold a [public meeting](#) of its Academic Research Council on May 10, 2019. The meeting will be held via conference call. The Bureau requests that interested persons RSVP to receive the conference dial-in information. The Council plans to discuss methodology and direction for consumer finance research at the Bureau. Written comments on the conference will be accepted from members of the public.

DEPOSIT INSURANCE—The Federal Deposit Insurance Corporation will hold four identical live seminars on FDIC deposit insurance coverage for bank employees and bank officers between May 15, 2019, and Dec. 9, 2019. According to the [FIL-23-2019](#), the seminars will provide a comprehensive review of FDIC deposit insurance rules and deposit insurance coverage information on signature cards requirements for certain types of accounts. The seminars are free but advance registration is required. The FDIC also developed three separate deposit insurance coverage [seminars](#) for bank officers and employers that are available on the agency's YouTube channel. The seminars are pre-recorded and intended to be used as self-study. Participation in the live or pre-recorded seminars is strictly voluntary.

FINANCIAL INTERMEDIARIES—In response to its Request for Information on issues relating to state money transmissions and payments regulation as regulators begin work on model legislation introduce in all 50 states ([Banking and Finance Law Daily](#), Feb. 22, 2019), the Conference of State Bank Supervisors has [released](#) the comment letters that it has received. The responses address about several areas of law and regulation, including money transmission activities and exemptions, personal vetting requirements for investors, state supervision, and coordination between states.

FINANCIAL TECHNOLOGY—New York Attorney General's Office has obtained a [court order](#) preventing iFinex Inc., operator of the Bitfinex virtual asset trading platform, and Tether Limited, issuer of the "tether" virtual currency, from further violations of New York law in connection with ongoing activities that may have defrauded New York investors that trade in virtual or crypto currency, [announced](#) AG Letitia James. According to the AG's ongoing investigation, the operators of Bitfinex engaged in a cover-up to hide the apparent loss of \$850 million

of co-mingled client and corporate funds. The companies are also barred from destroying, deleting, or permitting other to delete, potentially relevant documents and communications stored on any self-deleting or "ephemeral" computer applications.

INTEREST—USURY—W.D. Pa.: The U.S. District Court for the Western District of Pennsylvania was called to address homeowners' claims against JP Morgan Chase Bank for having, among other things, violated the Pennsylvania Loan Interest and Protection Act (Act 6) by allegedly charging them a usurious mortgage interest rate, unlawful attorney fees, and other charges. In connection with the bank's motion to dismiss the Act 6 claims, the court rejected the bank's argument that the usury claim was preempted by the National Bank Act and explained that the homeowners' mortgage originated with a non-national bank even though Chase, a national bank, was later assigned the note and mortgage. Likewise, the court rejected the bank's argument that the Act 6 claim of unlawful attorney fees was barred by the applicable four-year statute of limitations. The Act 6 claim for excessive fees accrues on *payment* of the excessive portion, not on the charging of the fees or the obligor's knowledge of the fees, the court noted. However, in reviewing the overall sufficiency of the complaint, the court ultimately determined that the homeowners had not adequately alleged that they "made the requisite unlawful payments of usurious interest or unlawful attorney's fees" within the operative four-year period to state valid Act 6 claims. Accordingly, the court dismissed the Act 6 claims "without prejudice," allowing the homeowners an opportunity to amend their complaint ([Owens v. JP Morgan Chase Bank](#), April 24, 2019, Horan, M.).

PRIVACY—A bipartisan bill to strengthen data breach notification laws has been unanimously [passed](#) by the Washington state legislature. The bill, originally requested by Washington Attorney General Bob Ferguson, expands consumer data breach notification requirements to include more types of consumer information. It also reduces the deadline to notify consumers to 30 days from 45 days. The new law requires organizations also to notify consumers if a hacker accesses a consumer's name in combination with the following: full birth dates; health insurance ID numbers; medical history; student ID numbers; military ID numbers; passport ID numbers; usernames and passwords; or biometric data, such as DNA profiles or fingerprints; and electronic signatures. Additionally, the legislation requires notice to the Attorney General within 30 days of the discovery of a data breach. The bill ([H.B. 1071](#)) becomes effective March 1, 2020.

Companies: Conference of State Bank Supervisors; iFinex Inc.; JP Morgan Chase Bank; Tether Limited

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