Banking and Finance Law Daily Wrap Up, WORTH NOTING—Other regulatory, legislative, litigation, and industry developments, (Dec. 5, 2025)

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—The Office of the Comptroller of the Currency has issued Interpretive Letter 1187 granting a national bank an exemption from Section 23A of the Federal Reserve Act and Regulation W. The bank sought relief after a planned internal reorganization involving the contribution of equity from an affiliate exceeded statutory limits on covered transactions with affiliates. Under Section 23A, such transactions are generally capped at 10 percent of a bank's capital for a single affiliate and 20 percent for all affiliates combined. The OCC, in coordination with the Federal Reserve Board and with no objection from the Federal Deposit Insurance Corporation, determined the exemption was in the public interest and consistent with the statute's purposes. The OCC noted that the transaction would streamline organizational structure, improve efficiency, and enhance customer services without transferring federal safety net subsidies. The exemption was conditioned on the bank's compliance with all commitments and representations made in its request.

BANKING OPERATIONS—2d Cir.: The U.S. Court of Appeals for the Second Circuit was called to review a civil forfeiture case. In October 2021, the claimant-appellant, R. Ross, the owner of a bank account at a Regions Bank branch, "received a fraudulent transfer of $29.6 million" into the account, and most of that amount was later "transferred out of the account that same month" by the alleged fraudsters. On appeal, Ross challenged (1) an award forfeiting to the plaintiff-appellee United States Government approximately $3.69 million of the "defendants *in-rem* for which no claim was filed;" (2) the dismissal without prejudice of forfeiture proceedings "against $1.21 million of defendants-*in-rem* for which Ross filed a claim;" (3) the entry of a "certificate of reasonable cause" as to that $1.21 million; and (4) the denial of claimant Ross's motion for attorney fees and costs. Ultimately, the Second Circuit concluded that: (i) the claimant "cannot contest that part of the judgment ordering forfeiture of $3.69 million of the defendants-*in-rem* because he failed to demonstrate Article III standing and, in any event, failed to file a timely claim to this property;" (ii) the claimant "sustained no denial of due process from the district court's reasonable grant of a stay of discovery in this civil forfeiture proceeding while a parallel criminal investigation was pursued;" (iii) because the federal district court dismissed the civil forfeiture proceeding "without prejudice," Ross could not be viewed as having "substantially prevailed" in the proceeding "so as to be entitled to an award of attorney fees and costs" against the U.S. Government, and the Government's "subsequent voluntary return of the $1.21 million claimed by Ross warrants no different conclusion;" and (iv) the district court did not abuse its discretion in granting dismissal without prejudice. At the same time, however, the Second Circuit determined that because no judgment had been entered in favor of Ross as to the $1.21 million claimed by him, "the district court erred in granting the government a certificate of reasonable cause for the seizure of those monies" (*U.S. v. Ross*, No. 24-1421-cv (2d Cir. Dec. 4, 2025)).

BANK SECRECY ACT—The Financial Action Task Force (FATF) has removed four jurisdictions from its list for "increased monitoring" for anti-money laundering, in a November 21 statement. The FATF removed Burkina Faso, Mozambique, Nigeria, and South Africa from the list, following its plenary meeting the month prior, while also updating its public statement on calls to action to counter proliferation financing by Iran. The FATF is an intergovernmental body that establishes international standards for anti-money laundering, countering the financing of terrorism, and countering the financing of proliferation of weapons of mass destruction (AML/CFT/CPF), and maintains a hierarchical list of jurisdictions with strategic AML/CFT/CPF deficiencies.

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CHECKS AND ELECTRONIC TRANSFERS—The Federal Reserve Board has decided to offer 30 more days for the public to comment on the Fed's revised renewal of its data collection for recordkeeping and disclosure requirements under the Consumer Financial Protection Bureau's Regulation E—12 C.F.R. Part 1005 (Electronic Fund Transfers). According to the Fed's *Federal Register* notice, the public has until Jan. 7, 2026, to comment on various aspects of the renewal, such as the applicability of the survey to the agency's purported goals, and the accuracy of its estimated annual burden of 165,426 hours among 815 respondents. The Fed's adoption of a revised renewal of its data collection is slated to be extended for three years, and the Fed previously invited comment on the proposal in the summer of 2025 (see *Banking and Finance Law Daily*, Aug. 1, 2025).

CONSUMER FINANCIAL PROTECTION BUREAU—The Consumer Financial Protection Bureau seeks unrevised renewal of its Consumer Response Intake Form data collection, according to a Nov. 28, 2025, publication in the *Federal Register*. The public has until Jan. 27, 2026, to comment on aspects of the renewal, such as the applicability of the survey to purported goals and the accuracy of its estimated annual burden of 1.1 million hours among six million respondents.

CONSUMER FINANCIAL PROTECTION BUREAU—The Consumer Financial Protection Bureau has informed the U.S. District Court for the District of Columbia that it cannot lawfully draw funds from the Federal Reserve System under the Dodd-Frank Act. The notice follows a November 7 opinion from the Department of Justice's Office of Legal Counsel (OLC), which concluded that the Federal Reserve currently has no "combined earnings" available, as required by 12 U.S.C. §5497(a)(1). The CFPB stated that it expects to maintain operations through Dec. 31, 2025, using existing reserves. The Department of Justice, on behalf of Acting Director Russell Vought, advised that the Bureau anticipates exhausting its remaining funds in early 2026. The filing noted that the Acting Director plans to prepare a report to the President and congressional appropriations committees detailing the Bureau's funding needs, as required by statute. The notice also referenced restrictions under the Antideficiency Act, which limits agency activity during a lapse in appropriations. The CFPB remains subject to an injunction in *National Treasury Employees Union, et al. v. Vought, et al.*, governing employment and contracting practices. The filing did not request immediate judicial action but served to notify the court of the funding constraint and the Bureau's interpretation of its authority under the OLC opinion.

CONSUMER FINANCIAL PROTECTION BUREAU—The Consumer Financial Protection Bureau is seeking an unrevised renewal of its "Consumer Response Intake Form" data collection. According to the CFPB's *Federal Register* notice, the Bureau invites public comments on various aspects of the information collection, including the applicability of the survey to the agency's purported goals and the accuracy of its estimated annual burden of 1.1 million hours among six million respondents. Written comments are due by Jan. 27, 2026, to be assured of consideration.

CRIMES AND OFFENSES—The U.S. Department of Justice announced that former President and Chief Executive Officer of the First National Bank of Lindsay, Danny Seibel, was indicted by a federal grand jury in the Western District of Oklahoma. The indictment charges Seibel with conspiring to commit bank fraud, bank fraud, making false entries in the books and records of a financial institution, obstructing the examination of a financial institution and failing to implement an anti-money laundering program. An audit report from the Office of Inspector General (OIG) of the Department of the Treasury released earlier this year highlighted internal control failures that resulted in the insolvency of the First National Bank of Lindsay in Lindsay, Oklahoma (see *Banking and Finance Law Daily*, April 1, 2025).

DEBT COLLECTION—The Consumer Financial Protection Bureau has released its annual report to Congress on its Fair Debt Collection Practices Act (FDCPA) efforts from last year. The latest 31-page report covers activities from 2024, including an overview of FDCPA complaints, FDCPA-specific examination findings, and public outreach efforts. The report also includes similar information from the FTC, which enforces aspects of the FDCPA in conjunction with the CFPB.

DEPOSIT INSURANCE—The Federal Deposit Insurance Corporation has issued a final rule delaying the compliance date for its new signage requirements to Jan. 1, 2027 (FIL-53-2025). The original update to the FDIC's new signage rule from Dec. 20, 2023, was due to take effect March 1, 2026. In a memo to the Board,

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FDIC staff recommended delaying the compliance date with the delay intended to provide time for proposed amendments to the 2023 final rule.

DEPOSIT INSURANCE—The Federal Deposit Insurance Corporation has announced that the Designated Reserve Ratio (DRR) for the Deposit Insurance Fund will remain at 2 percent for 2026. The FDIC Board of Directors approved this designation on Nov. 25, 2025, and published the notice in the *Federal Register* on Nov. 28, 2025. The DRR is set pursuant to section 7(b)(3)(A)(i) of the Federal Deposit Insurance Act (12 U.S.C. 1817(b)(3)(A)(i)). Because the ratio remains unchanged, no amendments to 12 CFR 327.4(g) are required.

DIRECTORS, OFFICERS AND EMPLOYERS—The Office of the Comptroller of the Currency has named Brian P. Hudak as Deputy Chief Counsel. In this role, Hudak will provide advice to the Chief Counsel and senior OCC officials on significant legal, policy and administrative matters affecting the federal banking system, including management and oversight over the OCC's enforcement, litigation, and internal agency matters. "Brian brings nearly two decades of successful litigation and enforcement experience at the U.S. Attorney's Office to the OCC, where he will provide meaningful direction to advance our supervisory and regulatory mission while ensuring that our regulated institutions are held accountable for their compliance with statutory and regulatory requirements," said Comptroller of the Currency Jonathan V. Gould. Hudak most recently served as Civil Chief at the U.S. Attorney's Office for the District of Columbia where he oversaw and supervised the litigation of thousands of civil defensive and affirmative matters.

DIRECTORS, OFFICERS AND EMPLOYERS—U.S.: As previously reported, in the spring of 2025, a White House office emailed National Credit Union Administration (NCUA) Board members Todd Harper and Tanya Otsuka, informing them that, on behalf of President Donald Trump, their NCUA Board positions were being terminated "effective immediately." Harper and Otsuka then filed a lawsuit in the U.S. District Court for the District of Columbia claiming that their removals were *ultra vires*, violated the Administrative Procedure Act, and violated the separation of powers as outlined in the U.S. Constitution (see *Banking and Finance Daily*, Apr. 29, 2025). In July 2025, the federal district court entered an order granting summary judgment in favor of the Board members, denied the government's cross-motion, and declared the NCUA Board members' terminations to be unlawful. The NCUA Board members could be removed only "for cause" before the expiration of their respective terms (*Harper v. Bessent*, No. 25-01294 (AHA) (D.D.C. July 22, 2025)). Later, the U.S. Court of Appeals for the District of Columbia Circuit administratively stayed the federal district court's order pending appeal and set an expedited briefing schedule. Although that intermediate appellate case remains pending without any final judgment, NCUA Board members Harper and Otsuka filed a petition for a writ of *certiorari* before judgment with the U.S. Supreme Court in September and asked: (1) "Whether Congress did and can constitutionally limit the Executive's authority to remove members of the National Credit Union Administration Board, which follows in the same distinct historical tradition as the Federal Reserve;" and (2) "Whether a federal court may reinstate or prevent a person's removal from membership on the National Credit Union Administration Board, either through relief at equity or at law." However, the Supreme Court recently decided to deny the NCUA Board members' petition before judgment (*Harper v. Bessent*, No. 25-367, U.S. Nov. 24, 2025)).

ENFORCEMENT ACTIONS—The Office of Foreign Assets Control has assessed a civil monetary penalty of over $7 million against Gracetown, Inc., for violations of OFAC's Russia sanctions resulting from its dealings in property of sanctioned Russian oligarch Oleg Deripaska and for related reporting obligations. Between April 2018 and May 2020, Gracetown knowingly accepted 24 monthly payments totaling $31,250 for an entity owned by Deripaska. Additionally, the enforcement release states that Gracetown failed to timely report Deripaska's blocked property to OFAC.

ENFORCEMENT ACTIONS—The Office of Foreign Assets Control (OFAC) announced it has imposed a $4.7 million penalty on an Atlanta-based real estate investor for renovating and selling a property formerly held by a sanctioned family member of a Russian oligarch. Between 2023 and 2024, the investor—identified only as "Person-1"—mortgaged, renovated, and sold a blocked Atlanta property through a real estate investment company, King Holdings LLC, ignoring an OFAC cease-and-desist order and a subpoena, the Enforcement Release stated. According to OFAC, Person-1 willfully proceeded with the renovation and sale after being made

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aware of restrictions on the property that prohibited its transfer, sale or foreclosure. OFAC purportedly told Person-1 they could apply for a license to proceed with the project, which they did not pursue.

EQUAL CREDIT OPPORTUNITY—U.S.: An individual, M. Miller, filed a *pro se* petition for a writ of *certiorari* with the U.S. Supreme Court, requesting that the High Court review Equal Credit Opportunity Act issues addressed by the U.S. Court or Appeals for the Tenth Circuit in its decision in favor of Legacy Bank and against the petitioner. In the underlying case, Miller, a Black male, alleged that Legacy Bank had engaged in discriminatory lending practices when he approached the bank about a potential loan. According to the lower courts, the petitioner "made a loan inquiry to Legacy Bank" and "was discouraged from applying for a loan and denied the opportunity based on non-creditworthy factors, including the geographic location of the property." In an unpublished opinion, the Tenth Circuit held that Miller could not bring his ECOA claim because he "did not formally submit a loan application" and "did not qualify as an 'applicant' under the statute [ECOA]." In his U.S. Supreme Court petition, Miller contends that the Tenth Circuit's interpretation of ECOA in this regard has created a circuit split with the Seventh Circuit Court of Appeals. Along these lines, the petition asks: (1) "Whether the Equal Credit Opportunity Act 15 U.S.C. § 1691 et seq., authorizes a cause of action for individuals who are prospective applicants or inquirers, and who have been subject to discriminatory discouragement by lenders prior to the submission of a formal credit application, thereby resolving a circuit split between the Tenth and Seventh Circuits;" and (2) "The 10th Circuit's decision raises the following issues not yet decided by this Court: (i) Did Congress intend for the Equal Credit Opportunity Act to allow discrimination to occur to borrowers before they have a completed loan application? (ii) Should prospective applicants be able to bring suit under the Equal Credit Opportunity Act?" (*Miller v. Legacy Bank*, No. 25-6137 (U.S. Nov. 13, 2025)).

FAIR CREDIT REPORTING—The Federal Reserve Board has decided to offer 30 more days for the public to comment on the Fed's renewed authorization for the Consumer Financial Protection Bureau's data collection under Regulation V (Fair Credit Reporting). The notice comes after the Fed solicited comment for 60-days beginning July 31 that did not garner any responses (see *Banking and Finance Law Daily*, Aug. 1, 2025). According to the Fed's *Federal Register* notice, the latest extension of the comment period now runs through Jan. 7, 2026. The public is invited to comment on the original topics—such as the applicability of the survey to the agency's purported goals and the accuracy of its estimated annual burden of 403,418 hours among 282,070 respondents.

FEDERAL RESERVE SYSTEM—The Federal Reserve has released the full text of its annual report to Congress. The report documents activities at the Fed in calendar year 2024 across monetary policy; financial stability; supervision and regulation; payment system and Reserve Bank oversight; and consumer and community affairs.

FEDERAL RESERVE SYSTEM—The Federal Reserve Board has announced new pricing, effective Jan. 1, 2026, for payment services provided by the Federal Reserve Banks to financial institutions. These services include check clearing, automated clearing house (ACH) transactions, instant payments, and wholesale payment and settlement services. The changes are designed to recover costs as required by the Monetary Control Act and include a private-sector adjustment factor of $34.1 million. Overall, the adjustments will result in an average price increase of 0.9 percent for mature services. Key changes include higher fixed fees for FedACH and Fedwire Funds Service, significant increases for paper check processing, and lower fees for Fedwire Securities transfers. The Reserve Banks will also introduce a Payee Name Verification tool and discontinue FedComplete packages, the Foreign and Canadian Check Service, and FedGlobal ACH Payments by the end of 2026.

FINANCIAL STABILITY—The Federal Reserve Board has extended the comment period on its proposed changes to improve stress test model and scenario transparency to Feb. 21, 2026. Originally set for Jan. 22, 2026, the proposal's extended deadline gives stakeholders more time to analyze the issues and submit feedback, according to the Fed. Comments on the 2026 stress test scenarios remain due Dec. 1, 2025.

FINANCIAL STABILITY—The Federal Deposit Insurance Corporation released the public sections of informational filings for six large insured depository institutions—CIBC Bank USA, City National Bank, Comerica Bank, East West Bank, Valley National Bank, and Zions Bancorporation. The filings, required every three

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years for covered banks with assets between $50 billion and $100 billion, support resolution readiness under the Federal Deposit Insurance Act in case of distress or failure. Submissions were due Oct. 1, 2025, with the resulting documents made available on the agency's website.

FINANCIAL STABILITY—The Office of Financial Research (OFR) published its 2025 Annual Report to Congress on Nov. 19, 2025, detailing potential threats to U.S. financial stability and progress in fulfilling its mission under the Dodd-Frank Wall Street Reform and Consumer Protection Act. Covering the fiscal year ending Sept. 30, 2025, the report highlights the OFR's research, risk analysis, and efforts to standardize financial data supporting the Financial Stability Oversight Council.

FINANCIAL STABILITY—In a continuing information collection, the Office of the Comptroller of the Currency is seeking public feedback about proposed revisions to the OCC's annual stress test reporting requirements for large banks with $250 billion or more in assets. In the agency's request for information, published in the *Federal Register* on November 28, the OCC is updating templates and documentation used under the Dodd-Frank Act to better assess capital adequacy and risk management. The OCC stated that these revisions align with proposed Federal Reserve updates to minimize burden on financial institutions. According to the OCC's *Federal Register*notice, comments on the information collection must be submitted to the agency by Jan. 27, 2026.

FLOOD INSURANCE AND DISASTER RELIEF—The American Bankers Association, along with 13 associations and coalitions, have sent a letter to Congressional leaders urging them to adopt a long-term reauthorization of the National Flood Insurance Program (NFIP), saying it would provide "certainty for the millions of Americans who rely on this vital program to protect their families and properties from flooding." According to the joint letter, the unavailability of the NFIP "for any period of time is highly disruptive to the mortgage and commercial lending processes, to the availability of financial and technical assistance to homeowners of repetitive loss properties, and to NFIP policyholders attempting to renew their expiring policies." The associations note that during the recent government shutdown, the NFIP lacked authority to issue new flood insurance policies, putting up to 40,000 home sales at active risk of closing without active flood insurance.

GOVERNMENT SPONSORED ENTERPRISES—The Federal Housing Finance Agency announced that Fannie Mae and Freddie Mac (the Enterprises) each will have a $88 billion cap on multifamily loan purchases in 2026, totaling $176 billion to support the rental housing market, according to a Nov. 24, 2025, announcement. At least half of each Enterprise's purchases must be "mission-driven," targeting affordable, underserved, or energy-efficient housing. The FHFA said that while caps—reflecting current market forecasts—could be increased as needed, the current caps would not be reduced in the event of market contraction. The agency further outlined detailed rules for classifying loans on affordable, workforce, rural, and green housing as "mission-driven."

LOANS—The Federal Housing Finance Agency reported total collateral pledged to Federal Home Loan Banks (FHLBanks) rose to $4.45 trillion at the end of 2024, according to the FHFA's annual report to Congress. The report, required under the Housing and Economic Recovery Act of 2008, details collateral by type and FHLBank district. Meanwhile, total advances by FHLBanks fell about 9% to $736.7 billion. Each FHLBank sets its own collateral policies, including acceptable asset types and discount rates, to ensure advances remain fully secured.

LOANS—The Federal Reserve Board has released its most-recent update on lending facilities authorized under Section 13(3) of the Federal Reserve Act. facility established by the Fed in response to economic effects of the COVID-19 pandemic. The Fed is required to submit an initial report regarding each facility established under Section 13(3) and periodic updates at least every 30 days thereafter. This report provides the next periodic update on the Paycheck Protection Program Liquidity Facility (PPPLF) and the Main Street Lending Program (MSLP), which is comprised of five lending facilities: the Main Street New Loan Facility (MSNLF), the Main Street Expanded Loan Facility (MSELF), the Main Street Priority Loan Facility (MSPLF), the Nonprofit Organization New Loan Facility (NONLF), and the Nonprofit Organization Expanded Loan Facility (NOELF). As of Oct. 31, 2025, the PPPLF reported $69,705,876 in outstanding advances and $470,635,566 in accrued interest and fees. Similarly, the MSLP showed $1,086,818,968 in outstanding loans to its special purpose vehicle, backed by collateral valued at $3,836,261,376, and generated $3,599,288,079 in revenue. The report noted that both

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programs include risk-mitigation features and are not expected to result in losses to the Federal Reserve. In addition, the Fed has released transaction-specific disclosures for the PPPLF.

MORTGAGES—The Federal Housing Finance Agency announced that the 2026 baseline conforming loan limit (CLL) for one-unit properties will rise to $832,750, up $26,250 from 2025, according to an announcement from the FHFA. The announcement comes as part of the FHFA's annual CLL adjustments, including changes to "high-cost" areas to $1,249,125, with special provisions for Alaska, Hawaii, Guam, and the U.S. Virgin Islands. These adjustments reflect a 3.26 percent nationwide home price increase. The FHFA issued maps for mortgages acquired in 2026, and map indicating loan limit values. Finally, the FHFA issued an addendum and FAQs on the CLL.

OVERSIGHT AND INVESTIGATION—Senator Elizabeth Warren (D-Mass.), Ranking Member of the Senate Banking, Housing, and Urban Affairs Committee, and Rep. Maxine Waters (D-Calif.), Ranking Member on the House Financial Services Committee, have sent a letter to Department of the Treasury Secretary Scott Bessent, Federal Reserve Chair Jerome Powell and US Mint Acting Director Kristie McNally, asking the Treasury and the Federal Reserve to issue guidance following the Trump Administration's decision to discontinue penny production. The legislators write that the Administration made this decision "without a transition plan or public guidance, leaving banks, retailers, and consumers uncertain about how to conduct basic cash transactions and adjust their operations accordingly." They warn that clear federal guidance is warranted to establish consistent price-rounding practices and equal treatment of customers.

Attorneys: Vincent Gregory Levy (Holwell Shuster & Goldberg, LLP) for Todd M. Harper. D. John Sauer, U.S. Department of Justice, for Scott Bessent. Thomas R. Sutcliffe, U.S. Attorney's Office, for the United States. Sangyoon Park (Kibler Fowler & Cave LLP) for Richard Ross.

Companies: American Bankers Association; American Land Title Association; Association of State Floodplain Managers; CIBC Bank USA; City National Bank; Comerica Bank; East West Bank; Flood Insurance Producers National Committee; Greater New Orleans, Inc./Coalition for Sustainable Flood Insurance; Independent Insurance Agents and Brokers of America; Insurance Institute for Business and Home Safety; King Holdings LLC; Legacy Bank; Mortgage Bankers Association; National Association of Flood and Stormwater Management Agencies; National Association of Mutual Insurance Companies; National Association of Professional Insurance Agents; National Flood Association; Regions Bank; SmarterSafer Coalition; The Counsel of Insurance Agents and Brokers; Valley National Bank; Zions Bancorporation

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