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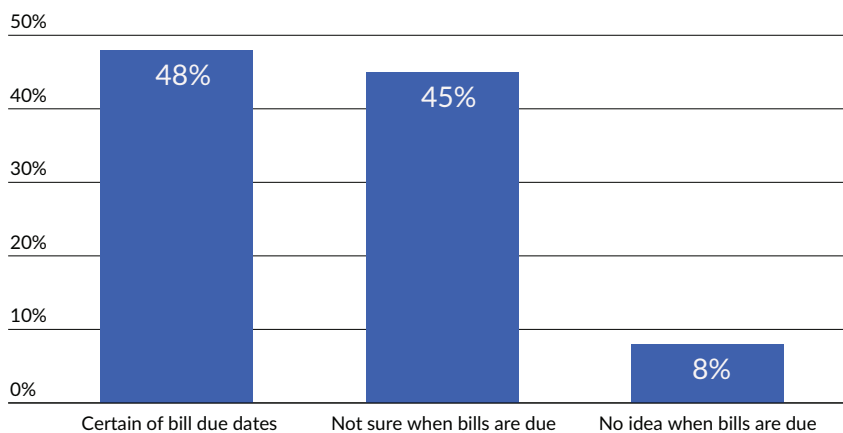
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Deadline dash

Lots of people don't know when bills are due, driving a market for last-minute walk-in payments for cash-reliant consumers

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dailybriefing

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AFFORDABLE HOUSING

Biden administration sets goal of adding 100K affordable housing units

By Hannah Lang

September 01, 2021

WASHINGTON — The Biden administration on Wednesday announced several efforts across the government aimed at increasing the affordable housing supply.

The White House said the goal of the new initiatives is to make 100,000 new units available for both homeowners and renters over the next three years. The steps include more financing for manufactured homes and two-to-four unit properties, as well as working with state and local governments to reform arcane zoning restrictions.

The administration also said that nonprofits and individuals will get preference over investors in acquiring foreclosed properties that had been insured by the Federal Housing Administration.

“President Biden is committed to using every tool available in government to produce more affordable housing supply as quickly as possible, and to make supply available to families in need of affordable, quality housing — rather than to large investors,” the White House said in a press release.

In line with the administration’s announcement, the Federal Housing Finance Agency said effective immediately, Fannie Mae and Freddie Mac will be permitted to each invest up to \$850 million annually in the Low-Income Housing Tax Credit market as equity investors. Previously, the government-sponsored enterprises were limited to investing \$500 million each.

FHFA also said that it would lengthen the “first-look period” that gives certain parties an advantage in buying foreclosed

properties backed by Fannie and Freddie. The period during which occupants, public entities and nonprofits can purchase real-estate-owned properties will be extended from 20 to 30 days. After that period, those properties are available for investors to purchase. The FHA will also extend its first-look period to 30 days.

“Extending the amount of time owner occupants have to bid on a REO property, without competition is especially important for neighborhood preservation while the supply of homes for sale is severely limited,” said Sandra Thompson, the acting director of the FHFA, in a statement.

The Department of Housing and Urban Development will also launch efforts to expand its outreach to nonprofits and local governments to “further educate” them on the process for bidding on real-estate-owned properties.

As part of the Biden administration’s efforts, the Treasury Department will also issue “a notice of funding availability” for the Capital Magnet Fund, a program financed through contributions from Fannie and Freddie that makes grants available to nonprofits and community development financial institutions to facilitate the production of affordable housing.

That notice from Treasury will also “include changes to strongly encourage affordable housing production,” the White House said.

Treasury will also restart the partnership between its Federal Financing Bank and HUD’s risk sharing program, which was suspended in 2019. That partnership will

allow state housing finance agencies to offer low-cost capital for affordable housing production, the White House said.

The administration also announced several strategies to combat exclusionary zoning, which many stakeholders have long-argued is the number one barrier to building affordable housing. As part of that endeavor, FHFA is preparing a report on how concentrated Fannie and Freddie’s mortgage purchases are in areas with exclusionary zoning policies. That study will also offer data on the demographic characteristics of borrowers whose loans are backed by the GSEs.

HUD is also creating a “housing supply toolkit” that will offer strategies for successfully deploying grants in order to address housing affordability challenges.

“Moving forward, HUD and the Biden-Harris Administration will continue to pursue bold actions to create and preserve affordable homes for all Americans,” said HUD Secretary Marcia Fudge in a statement.

Additionally, the Biden administration said it would conduct “peer learning and listening sessions” in conjunction with HUD and FHFA to “allow for the exchange of best practices” on zoning reform to combat housing supply and affordability challenges.

“The sessions will also identify the obstacles to implementation that remain, which the president’s Build Back Better Agenda and potentially federal administrative action, can help address,” the White House said.

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CYBERSECURITY

What Microsoft's Azure cloud security vulnerabilities mean for banks

By David Heun

September 01, 2021

For the most part, banks were standing safely on the sidelines last week when Microsoft delivered security vulnerability notices to its Azure cloud computing clients.

The Redmond, Washington, company warned of separate security vulnerabilities related to an Azure database and the Power Apps portal, both discovered by security researchers the past few months and reportedly fixed before any data could be stolen.

In the case of Azure, researchers discovered easy access to keys that opened databases. The PowerApps portal was allowing anyone working on an app to potentially access databases other than their own.

No financial services firms were directly affected by exposure to these infrastructure flaws. Those listed as Azure customers on the Microsoft website, most notably Liberty Mutual and the financial tech provider Finastra, declined to comment.

London-based Metro Bank is listed as a Power Apps client, but it cited bank policy in not speaking publicly about security incidents or actual breaches. Metro Bank has about \$31 billion of assets.

"At Metro Bank, we continuously scan our systems for potential vulnerabilities in order to respond as fast as possible to reports of newly discovered issues," a bank spokesman said.

Still, the notices provided another not-

so-subtle warning to banks about cloud configurations that could be exploited to gain access to seemingly protected databases.

Because banks continue to transition parts of legacy systems to cloud-based services, they increasingly operate or integrate with the top cloud providers, mainly Amazon Web Services, Microsoft Azure and Google Cloud.

"With many firms using the same suppliers, the financial sector faces an additional challenge of concentration risk," said Teresa Walsh, global head of intelligence for the Financial Services Information Sharing and Analysis Center, a cyber risk prevention industry consortium in Reston, Virginia.

Walsh sees the need for thorough network oversight and an understanding of how the cloud companies monitor their systems.

"Financial firms are actively investing in strengthening both third-party due diligence and operational resiliency," Walsh said. Such attention affords the ability to stay in operation "even in the face of a cybersecurity incident such as one stemming from a supply chain attack," she said.

Financial institutions have to establish a zero-trust mindset, create a process for managing third-party risk and deploy risk-monitoring services to assess risks from vendors, Walsh added. A zero-trust mindset is one in which all users, inside and outside an organization's network, are authenticated, authorized, and continuously validated before being granted or allowed to maintain access to applications and data.

Microsoft's security warnings

Citing a flaw in its Azure central database Cosmos, Microsoft informed thousands of its clients that access keys to their databases stored on Azure had been left in the open for the past two years.

A research team at security company Wiz that was conducting a check of the system for Microsoft discovered the key-access vulnerability. Microsoft sent out a security alert that encouraged Azure clients' tech teams to create new keys. As another security layer, Microsoft says only clients can change their own keys.

Microsoft's other security notice was directed at the government entities and private companies using Microsoft Power Apps, an Azure-based service in which

developers can easily build professional applications.

An analyst at the security firm UpGuard found a faulty data application programming interface that led to more than 1,000 apps in the Power Apps portal being susceptible to anyone who would request access to data and personal records.

In both cases, security researchers worked with Microsoft under its vulnerability disclosure program.

Microsoft assured its customers it reacted quickly to both vulnerabilities — the access to keys in Azure and the misconfigured API in Power Apps — that allow unauthorized users into secured databases.

"We fixed this issue immediately to keep our customers safe and protected," a Microsoft spokesman said.

Microsoft also reiterated it did not find any evidence the security gap was "exploited by malicious actors."

Where banks should be wary

Microsoft said it is working with Power Apps customers to ensure they are using the right privacy settings.

The primary portal designer Microsoft provides for developers of Power Apps, Design Studio, comes with strong privacy default settings, the company said.

It's not likely the Cosmos and Power Apps security gaps would come into play often at the same time.

"While it's possible to hook Cosmos database up to Power Apps, that's a design choice rather than some inherent part of Power Apps," Nigel Thorpe, technical director at SecureAge Technology, a data protection provider in Singapore. "The important thing is to avoid using any default security settings without understanding what the implications are."

The problem with Power Apps, Thorpe said, is that it is designed so that it can be used by newbie or inexperienced developers "who are less likely to understand the implications of default settings."

For banks, this is the most recent reminder of the risks of storing data in the cloud. Federal banking regulators last May warned about potential cloud security incidents in what amounted to an awareness check as banks, like most businesses, had more workers at home during the pandemic.

That regulatory notice came on the heels of a ransomware incident at Finastra,

a London-based provider of core bank technology.

This time, the Microsoft alerts did not involve breaches.

“This is embarrassing for Microsoft, but not an issue, though this could trigger data breach disclosures for some Cosmos customers and Power Apps customers,” said Tari Schreider, senior analyst with the cybersecurity practice at Aite-Novarica Group. “All in all, these were near misses.”

Schreider confirmed there appears to be no impact on financial institutions based on the types of customers potentially affected. Still, she said tech providers, security firms and financial institutions all have to take into account that “misconfigurations in cloud infrastructure are a huge problem.”

Security flaws of this nature have led to data breaches in the past, such as the 2019 Capital One/Amazon Web Services breach. In this case, Microsoft apparently caught the issue before hackers did.

“It’s as if the back door was open and no one came in,” Schreider said. “And now the door is closed.”

CASH

Cash not only survived the pandemic — it came out stronger

By Kate Fitzgerald

September 01, 2021

Cash usage is showing signs of surpassing pre-pandemic levels — and some of the digital payment options put in place during lockdown are actually fueling the trend.

While much of the attention has been on major overhauls such as Burger King and Chipotle creating digital kitchens with no room for seated dining, companies have also invested in systems that accommodate cash users’ habits during lockdown.

Cash Connect, a division of the Wilmington, Delaware-based bank WSFS

Financial that provides cash-management technology for independent ATM operators and retailers, is seeing growing demand for unmanned secure kiosks to accept cash payments, for example.

“A lot of city offices where people pay their water bill were closed during the pandemic so consumers needed more options for making payments. And as the popularity of unattended retail grows, we’re seeing growth in new verticals,” said John Clatworthy, Cash Connect’s senior vice president and chief customer and strategy officer.

Described as a fintech within the bank, Cash Connect was established in 2000 as a unit of the \$15.1 billion-asset WSFS.

While cash use dropped severely during the start of the pandemic, it remained more resilient in the U.S. compared to other countries, according to Visa. Worldwide, 46% of consumers surveyed in June 2020 said they haven’t used cash as much since coronavirus began its spread. In the U.S., just 35% reduced their cash usage.

Even in the U.K., where the ATM network LINK saw withdrawals for April 2020 plummet to £4.4 billion — just over half the volume it was a year earlier — cash use began to steadily climb back the next month.

“There’s a large swath of consumers that have always used cash, and our experience shows the pandemic had no long-term effect on their habits,” Clatworthy said.

Research shows that Cash Connect’s experience isn’t unique — across the income spectrum, cash remains popular for many reasons.

“While it’s true that unbanked consumers predominantly use cash, those earning over \$100,000 a year and those who describe themselves as tech-forward are also cash users,” said Sarah Grotta, director of debit and alternative products advisory at Mercator Advisory Group.

Cash Connect’s top-selling product is a smart safe that automatically counts the cash that clerks feed in throughout the day. Users receive an ACH deposit at their own bank equal to the cash accumulated in the safe each day, a service that became even more useful to merchants during the pandemic, Clatworthy said.

“Our safes and built-in software let businesses get credit for their total liquidity for the day even when staffing shortages make it difficult for someone to physically pick up and deposit cash at the bank,” he

said, noting that smart safes are very popular with quick-service restaurants, which have many low-dollar cash transactions.

Bob’s Stores and Eastern Mountain Sports, which has 50 locations, has used Cash Connect’s smart safes for four years, but leaned harder on them during the pandemic.

“As we dealt with changing restrictions that involved opening, closing and even pivoting our business model, our associates no longer had the risk associated with taking cash to a local bank branch,” said Kerry Williams, treasury and account payable manager at the Meriden, Connecticut outdoor-activity retail chain.

Over the last three years, sales of Cash Connect’s smart safes have increased at a compound annual growth rate of 40%, surpassing the growth rate of the unit’s core ATM management business, which provides cash-funding services to 27,000 U.S. ATMs, Clatworthy said.

One of Cash Connect’s partners in the fast-growing kiosk business is Chicago-based QuotePro, whose merchant customers span about a dozen industries including car dealerships, mobile home parks, insurance agencies and utilities, according to Marco Freudman, QuotePro’s president.

QuotePro uses Cash Connect’s technology within kiosks that can connect to a mobile app operated by the merchant, Freudman said.

“There are lots of kiosks that accept payment cards, but not many equipped to accept cards, checks and cash, including for higher sums,” he said.

Car dealerships are also interested in same-day ACH credit for total funds collected provided by Cash Connect’s software, which is helping drive strong demand for QuotePro’s kiosks.

One car dealership with dozens of locations previously sent staffers to several different banks every day with deposits before switching to the QuotePro system with CashConnect’s software, according to Freudman.

Freudman said that despite the broad increase in card payments, he predicts no direct displacement of cash transactions for the foreseeable future.

“If you can sell a used car dealership something, you know you have something exceptional,” Freudman said.

NATURAL DISASTERS

Gulf Coast bankers assess toll after Hurricane Ida

By Laura Alix, Jon Prior and Polo Rocha
September 01, 2021

Having escaped the worst of Hurricane Ida, Merchants & Marine Bank in Pascagoula, Mississippi, is now looking for ways to assist neighboring banks that weren't as fortunate.

Merchant & Marine, which has \$742 million in assets, has been reaching out to Louisiana bankers to offer the delivery of items like latex gloves, bleach, paper towels and toilet paper, Clayton Legear, the bank's president and CEO, said in an interview Tuesday.

"We really believe in bankers helping bankers," he said.

On Wednesday, Gulf Coast bankers were largely still surveying the wreckage left by Ida. While the physical damage to branches was less extensive than many expected, power outages kept bank offices closed in some of the hardest-hit areas. Lines at gas stations were long as many drivers sought to fill their tanks.

Bankers expressed confidence in their communities' resilience, but they pointed to a number of variables that could complicate recovery, including how quickly power is restored and the impact that high costs for labor and materials will have on rebuilding.

Ida made landfall on Sunday night in south Louisiana as a Category 4 hurricane, exactly 16 years after Hurricane Katrina. The storm struck the electronic grid with 150 mph winds, knocking out power for more than a million households across Louisiana and Mississippi. Ida weakened into a tropical depression Monday afternoon as it continued to move north.

Banks across the region shuttered branches on Monday or, in some cases, opened them late after confirming that they were outside

of Ida's path. By Wednesday, some shuttered branches had reopened, but many remained closed.

JPMorgan Chase said that at least 45 of its New Orleans-area branches were still closed on Wednesday. The city is under a shelter-at-home order that is preventing Chase from assessing potential damages. The nation's largest bank reopened more than a dozen branches Tuesday in Baton Rouge, which sustained less damage to its infrastructure than New Orleans.

Regions Financial, which is headquartered in Birmingham, Alabama, still had about 40 branches closed in Louisiana as of Wednesday, either because of power outages or storm damage.

"Many branches are physically in good condition; however, power or connectivity issues mean their reopening dates are undetermined at this point," Steve Nivet, a consumer banking regional executive, said in an email.

Gulf Coast Bank & Trust in New Orleans set up backup systems to avoid a shut-off of its internet service, processing wires and digital banking platform, President and CEO Guy Williams said. It also took the precautionary step in setting up a remote call center in Dallas, where customers can get help until late in the evening.

Gulf Coast's 45 offices were closed on Monday, and only five reopened on Tuesday. A few employees lost their houses to flooding — far fewer than the more than 60 percent of employees who suffered the same misfortune during Katrina.

At Pike National Bank in McComb, Mississippi, one branch was closed Wednesday due to power outages. President and CEO Jennifer Wallace expects the electricity to be down through at least Thursday night.

In the meantime, Pike National has focused on keeping its four other branches open and its employees fed. With power and internet access down, bankers have been making calls to local businesses to ask if they need cash or change. In some cases, they are helping cut trees off of area homes, Wallace said.

The \$307 million-asset bank has also coordinated efforts with local restaurants to feed its own employees, on top of an ongoing effort to feed local healthcare workers overwhelmed by the delta variant of COVID-19.

"Ninety percent of our employees don't

have power," Wallace said Wednesday morning. "They go home and they don't have any power or any way to cook food for their families."

Misty Albrecht, market director at b1Bank, a Baton Rouge subsidiary of \$4.4 billion-asset Business First Bancshares, gave a phone interview Tuesday while her home was being powered by a generator.

With the "catastrophic" blackout in New Orleans and elsewhere in b1Bank's footprint, Ida has so far proven more damaging than Hurricane Laura was last year, Albrecht said.

Workers are still assessing damage and setting up generators for b1Bank branches and offices that are still intact, she said. While three branches in Baton Rouge reopened on Tuesday, crews still have not arrived in some particularly hard-hit areas, such as Terrebonne Parish to the west of New Orleans, where b1Bank has several branches.

Meanwhile, the bank is preparing to cover financial hardships for employees who have been affected by the storm. Other b1Bank employees have been gathering to help cut down trees and hand out meals where they are needed — as they did in the wake of last year's hurricane.

Gulf Coast Bank, which also operates in Baton Rouge and parts of southeast Louisiana, is working on calling all of its consumer and business clients to see what assistance they might need, Williams said. Some local pizza places with gas-fired grills have been able to open and use up their fresh supplies.

"By candlelight they're making pizza and selling it as fast as they can make it," Williams said.

But other restaurants without power lack that option, Williams said, and the bank has committed to "help them resupply and stand ready to make loans to get people back on their feet."

The Office of the Comptroller of the Currency, the Federal Deposit Insurance Corp., the Federal Reserve and National Credit Union Administration issued joint guidance Monday encouraging financial institutions that operate in areas affected by Ida to meet the needs of their communities.

First Horizon in Memphis, Tennessee, said Wednesday that because of Ida, it will delay the operating systems conversion associated with its 2020 acquisition of Iberiabank, originally slated for this year's third quarter, to the first quarter next year.

First Horizon executives decided that it

would be too disruptive for both its employees and clients to attempt the systems conversion while many will likely still be dealing with Ida's aftermath. The delay will add another \$20 million to \$30 million in merger costs, which had already exceeded initial estimates.

First Horizon estimated that about 8,350 clients and 600 employees are in the affected areas. It said that it is offering fee waivers to customers, as well as financial and housing assistance for employees.

Gulf Coast bankers are hopeful that hurricane recovery efforts will offer an economic boost to the region, as funds from the federal government and private charities arrive. President Biden issued a disaster declaration on Sunday, which would direct federal funds to the affected areas. Regions' nonprofit charitable foundation announced Wednesday that it had earmarked \$250,000 for disaster relief.

But bankers said the pace of recovery will also depend on how quickly water and electricity are restored.

Nearly a million Louisianans were still without power as of Wednesday afternoon. And while some power was restored to New Orleans on Tuesday night, Entergy, the state's largest utility company, said Wednesday that it could be several more days before it restores power. The floodwaters and power outages have also taken out water treatment plants, leading to a shortage of drinking water.

"Having lived through this a few years ago, the restoration of infrastructure is key," said Art Stevens, president of retail banking at Trustmark Bank in Jackson, Mississippi, drawing on his experience in the aftermath of Katrina. "The roads have to be cleared and opened, the power has to come back on, the water and sewer has to work, really before full recovery can even start to take place."

Even before Ida struck, many communities in Louisiana and Mississippi were already dealing with various impacts from COVID-19, including supply chain disruptions, which could make it more expensive to rebuild after the hurricane. The price of building materials has moderated somewhat, but it is still relatively high, said Legear, of Merchants & Marine Bank. He said that many local markets have long been plagued by a shortage of skilled labor.

"While there may be money flowing in, how does that balance out with the increased material prices or labor of skilled craftsmen to help with rebuilding efforts?" he asked.

SMALL BUSINESS LENDING

Scope of CFPB small-business loan data requirements worries banks

By Kate Berry

September 01, 2021

The Consumer Financial Protection Bureau backtracked on a suggestion that the agency made during the Trump administration that it would exempt a significant chunk of community banks from small-business loan reporting requirements, sparking concern among industry representatives that the rule will be too broad.

The agency released a long-awaited proposal Wednesday mandated by Congress that would force banks and other lenders to collect and send data meant to identify discrimination and barriers to credit in small-business lending.

The 918-page notice of proposed rulemaking would require data on a wide range of credit products including term loans, lines of credit, credit cards and merchant cash advances.

Data on loans to small businesses is currently very limited, an issue the CFPB said became apparent during the COVID-19 pandemic and the rush to provide loans through the Paycheck Protection Program.

"We don't know enough about whether small businesses have fair access to the capital they need to generate new jobs and grow the American economy," acting CFPB Director Dave Uejio said on a conference call with reporters. "Without this information, we cannot reach our potential economic growth as a nation, as we saw all too recently in the original design and implementation of the Paycheck Protection Program."

The CFPB characterized the small business data collection — required by Section 1071 of the Dodd-Frank Act — as similar to mortgage

data reported under the Home Mortgage Disclosure Act.

But banks have largely resisted any expansion of data collection including for women- and minority-owned small businesses by claiming it requires too much paperwork and is a regulatory burden.

"Financial institutions and their vendors will also have to make significant changes to their systems and processes to meet new 1071 data collection and reporting requirements," said Richard Hunt, president and CEO of the Consumer Bankers Association, in a statement. "The complexities of collecting and reporting credit application data on women-owned, minority-owned, and small businesses under Section 1071 cannot be overstated due to the nature of small business lending and the ways these applications are processed."

Under the proposed rule, the CFPB would require lenders originating 25 or more small-business loans to report data on credit applicants, including businesses owned by women and minorities. The CFPB said the data would shed light on whether lenders are meeting borrowers' needs.

Yet that threshold will lead to a significantly broader scope of institutions subject to the requirements than former CFPB Director Kathy Kraninger had outlined last year. The CFPB under the Trump administration said last year that it was considering whether to exempt lenders with under \$100 million or \$200 million of assets.

Community banks are not pleased with the changes because they "would apply to far too many community banks," said Rebeca Romero Rainey, president and CEO of the Independent Community Bankers of America.

"The bureau's proposal — covering community banks that originate 25 loans or more — would ensnare even the smallest community banks in rural and other underserved areas, where barriers to credit should be reduced," said Romero Rainey. "Imposing any new data collection and reporting requirements on community banks would harm small-business lending at the very time local businesses are working to recover from the COVID-19 pandemic."

The CFPB described in its proposal how a number of financial institutions including community banks, credit unions, vendor finance and dealer-related institutions requested exemptions from the proposed

rule — and why it favored keeping the scope of the rule broad.

“The Bureau does not believe that the request made by several trade association stakeholders to take a more limited approach to scope — including the various limitations on the coverage of certain types of financial institutions and products — would be consistent with the statutory purposes of section 1071,” the CFPB said in the proposal.

Uejio also said that he plans to use the discretion given to the CFPB by Congress in the Dodd-Frank Act to gather basic information about the cost of credit.

The CFPB also said in the proposal that it is concerned that financial institutions may be compelled to raise the cost of credit or originate fewer small business loans depending on how it defines small businesses.

“We want to understand more about the kinds of credit applications lenders receive, how they respond to credit applications, and what credit is given,” he said.

The CFPB also released a chart of 23 proposed data points to be collected including the loan amount, whether the loan was approved or denied, pricing information, and the race, ethnicity and sex of the small-business loan applicant.

Although banks currently provide lending data in call reports, that data only captures the outstanding number and amount of loans held on bank balance sheets, not the flow of loans.

For more than a decade, the CFPB essentially held off from starting the small business data collection, in part, because the Equal Credit Opportunity Act prohibits collecting race and gender information from small businesses.

The CFPB dragged its feet for so long that it was sued in 2019 by the California Reinvestment Coalition, which resulted in a settlement last year.

As a result of the settlement, the CFPB convened a small business review panel last October after releasing an outline in September of its proposal to implement section 1071 of Dodd-Frank.

Banks already are advocating for a phased-in implementation of any final rule. Banks also are expected to ask for limits on the number of data points required by claiming the collection of data would create “unintentional impediments to small business credit access,” Hunt said.

Still, the CFPB said in its proposal that it is trying to reduce the compliance burden on banks through its definition of what constitutes a small business. The bureau said it is seeking approval from the Small Business Administration to define a small business based on a \$5 million gross annual revenue size standard, which would reduce the need for many financial institutions to make changes to compliance management systems.

“The Bureau believes that it will reduce burden for financial institutions, particularly those without sophisticated compliance management systems or familiarity with SBA lending, to comply with a gross annual revenue size standard for the section 1071 small business definition that better aligns with current lending practices,” the CFPB said.

If finalized, the CFPB’s proposed rule would create the first comprehensive database of small business credit applications in the U.S. The data submitted by financial institutions would be made available to the public annually and on the bureau’s website, though the data would be subject to modifications and deletions to protect privacy, the CFPB said.

Privacy issues have been such a concern that the CFPB said it is proposing a “balancing test” that would assess the risks and benefits of public disclosure. After at least one full year of data is reported, the CFPB said it plans to issue a policy statement that will describe its intended modifications and deletions.

The bureau also is proposing that publication of the data would satisfy financial institutions’ statutory obligation to make data available to the public upon request.

The proposed rule potentially would level the playing field between banks and fintechs since online lenders catering to small businesses also would have to gather the data and build compliance systems.

“There has been a movement of banks pointing at fintechs and saying regulate them, and this could be seen as part of that trend with tools for regulators to go after fintechs in the small-business space,” said Michael Gordon, a partner at Bradley Arant Boult Cummings.

Small-business lending also has been less regulated because most consumer protection laws apply to consumers, not businesses.

But banks will likely raise concerns that the data will result in more enforcement actions

for fair-lending violations.

“Banks are going to be worried about the liability if they collect data on demographics, race and gender, and the CFPB will try to make disparate impact or fair-lending cases out of it,” Gordon said. “It’s another fair-lending risk that has to be managed in a whole new way [because the data] gives regulators a lot more ammunition to build fair lending cases.”

As part of the proposal, the CFPB has launched a web portal for small-business owners to share their stories about applying for credit. Uejio said he wants to hear from all stakeholders about how the bureau can improve the proposed rule “to make sure the final rule serves the purposes Congress had in mind when it mandated this rulemaking in 2010.”

The CFPB said that failing to make small-business lending accessible to all who qualify stifles innovation and competitiveness. It also said the COVID-19 pandemic “highlighted the negative economic impact that occurs when policymakers lack the data to best target financial relief.”

The CFPB is allowing 90 days for the public to comment on the proposal once it is published soon in the Federal Register.

DIGITAL ID

Apple is rolling out digital ID. Will banks use it?

By Kate Fitzgerald

September 01, 2021

When Apple adds driver’s licenses to the Wallet app in the near future, it could streamline account management, identity verification and other aspects of financial services.

Apple’s implementation would build on the trust of state-issued IDs by adding biometric authentication and other security features built into its devices. But like Apple Pay, which the technology giant debuted in 2014, the service may come with a fee that Apple is unwilling to negotiate.

It will be up to banks and credit unions to

decide if the benefits could outweigh any cost Apple sets.

In particular, Apple's digital ID could transform know-your-customer processes, said Richard Crone, a principal with Crone Consulting.

"Providing digital access to the driver's license — which has already been KYC'd — represents a huge leap forward, especially when combined with biometrics to make processes even more secure through the device, which is extremely important for digital account opening," Crone said.

Fintechs may also incorporate the Wallet app into the installment loans they offer at the point of sale — as could Apple, which in July unveiled plans to provide buy now/pay later services through Goldman Sachs, which is also its partner in issuing the Apple Card.

"Digital ID within the iPhone could be a huge advantage for buy now/pay later financial services, creating an instant, secure way to connect the consumer, the merchant and the lender," Crone said.

The Transportation Security Administration is the first organization planning to accept digital IDs through an encrypted process, so users won't need to unlock or hand over their devices when clearing security, Apple said in a Wednesday press release. The TSA will enable the new feature at specific airports, but has not named them.

A big question is how Apple will handle third-party access to digital IDs. Even if Apple is working with government agencies on the project, it will likely assess a fee for any private-sector organizations that want to use the digital ID.

Beyond the TSA, it will probably take a long time for many other cases to evolve, said Tim Sloane, director of emerging technologies advisory at Mercator Advisory Group.

"Digital IDs will impact consumers, businesses and governments in significant ways, but these changes will take time to be deployed and longer to be adopted," Sloane said.

Digital IDs could take even longer to catch on than mobile payments because acceptance will likely be fragmented, he predicts.

"Will my liquor store accept it? What about local police? How quickly government and business communicate that they issue and accept digital IDs will be a critical determining factor to widespread adoption," Sloane said.

Arizona and Georgia are the first states that have agreed to support adding driver's licenses

and state IDs to Wallet when iOS 15 rolls out, Apple said in the release. Connecticut, Iowa, Kentucky, Maryland, Oklahoma and Utah will follow at a future date.

MOBILE BANKING

Robinhood plans early-deposit feature that rivals PayPal

By Bloomberg News
September 02, 2021

Robinhood Markets is working on a new feature that lets users receive their paychecks via direct deposit up to two days early, stepping up competition with companies like PayPal Holdings and Wealthfront.

Work on the new service was discovered inside of a beta version of an upcoming update to the company's iPhone app. The option is dubbed Early Direct Deposit and will be available within Robinhood's existing direct-deposit feature. The code also indicates that the service won't have fees.

"Now you can get paid up to two days early," a message inside the app will read. "Because eligibility depends on your employer, we'll let you know if you can get paid early on your next pay cycle."

A Robinhood spokeswoman declined to comment on the findings.

The functionality will compete with similar features from PayPal, Wealthfront, Chime and some traditional banks. Robinhood previously launched a cash management service in 2019, letting users put some of their money in an interest-bearing account. The feature debuted about a year after the company walked back a plan for checking-and-savings accounts that drew a rebuke from the Securities Investor Protection Corp.

Robinhood shares climbed as much as 6.3% to \$47.12 after Bloomberg reported on the feature. The stock had climbed 17% since its July initial public offering through Tuesday's close. PayPal shares dropped less

than 1% to \$286.70 on Wednesday in the wake of the news.

If implemented, the new feature would help advance Robinhood toward a vision it laid out for investors since its IPO: that its app can be much more than a place to trade.

"We want to be the single place that our customers go to for all things money," Chief Financial Officer Jason Warnick said during the company's second-quarter earnings call.

The company still has a ways to go before achieving that goal. Robinhood depends mostly on trading activity: Customer transactions in stocks, options and cryptocurrencies accounted for about 80% of revenue in the three months ended in June. The app has also faced challenges from regulators and politicians, including criticism of its customer service and approval processes for options trading.

The developer Steve Moser discovered the new feature and shared it with Bloomberg News. Other upcoming features, such as the ability to invest spare change and new protections against crypto volatility, were previously discovered in a beta version of the Robinhood app.

Code elsewhere in the beta app indicates that Robinhood is working on a voice verification feature for its phone customer service. The technology will let a user record themselves so that future calls to support can verify who is speaking. Several traditional banks have had that feature for years.

DIGITAL BANKING

Google Pay to offer time deposits to Indian users via lender

By Bloomberg News
September 01, 2021

Google has tied up with an Indian small lender to offer time deposits to users of its payments wallet, extending its presence in the nation's lucrative digital banking space.

Users of Google Pay will now be able to open a time deposit with Equitas Small Finance Bank Ltd. in just two minutes, a first in the industry, the lender said in a statement on Wednesday. Rates will be as high as 6.35% for a one-year deposit, the bank said.

Google's latest tie-up follows recent announcements in the financial services space by technology firms, including Facebook, Amazon.com and Xiaomi, that are eyeing the country's thriving and crowded digital banking industry with more than 300 online lending startups.

This will improve "financial inclusion by encouraging a savings culture, at the same time making the fixed deposit booking process simple and easy," Murali Vaidyanathan, country head at Equitas SFB, said in the statement.

WORKFORCE MANAGEMENT

Wells Fargo pushes back its return to office by two more weeks

By Bloomberg News
September 01, 2021

Wells Fargo pushed back its return-to-office plans by two more weeks to mid-October.

The company, which has the most employees of any U.S. bank, will now begin bringing back staffers who have been working remotely starting Oct. 18, rather than Oct. 4, according to an internal memo Wednesday from Chief Operating Officer Scott Powell.

Last month, Wells Fargo delayed its office return, originally set for Sept. 7, by a month as COVID-19 cases surged again across the U.S.

"The sequence of how employees will return remains unchanged from what I shared in my message on July 16, with operations and contact center employees returning over the course of several weeks beginning Oct. 18, followed by our enterprise functions and line of business support employees in November,"

Powell wrote in the memo.

Financial firms, which have been at the forefront of repopulating offices, are now grappling with how to adjust plans as the delta variant continues to spread across the country. San Francisco-based Wells Fargo has so far stopped short of requiring employees to get vaccinated, but all staffers currently working in the firm's offices are required to wear masks regardless of whether they've gotten the shots. Wednesday's memo from Powell included mention of Pfizer's vaccine having been fully approved by U.S. drug regulators.

BANKTHINK

Regulators are rethinking bank M&A rules. It's about time.

By John M. Pachowski
September 01, 2021

The July 9, 2021, executive order "Promoting Competition in the American Economy" has been presented by the Biden administration as a "whole-of-government effort" to prioritize steps to address unfair competition in the American economy. Of the more than 70 industry-specific policy priorities contained in the executive order, the Department of Justice and the three federal banking agencies — the Office of the Comptroller of the Currency, the Federal Reserve Board and the Federal Deposit Insurance Corp. — are encouraged to review current practices and adopt a plan within 180 days for the revitalization of merger oversight under the Bank Merger Act and the Bank Holding Company Act of 1956.

The impetus for this review is multifaceted, but at its core is a presumed assertion by the administration that increased bank consolidation and a lack of adequate bank merger oversight has been harmful to consumers. Considering costs have gone up for consumers, credit has been restricted

for many small businesses and low-income communities have felt the brunt of bank and branch closures over the last 15 years — a period when not one bank merger was denied by regulators — that assertion seems well founded.

A fact sheet put out by the White House calls attention to 10,000 bank closings over the last 40 years, with many of those closures the result of mergers and acquisitions. The White House notes that communities of color are disproportionately affected, with 25% of all rural closures in majority-minority census tracts. With increased consolidation consumers have less choice among banks, restricted access to credit, and face higher interest rates and fees.

One example of a merger arguably not meeting the needs of the community is the 2020 acquisition of E-Trade by Morgan Stanley. The Fed noted in its approval that Morgan Stanley would control nearly 13% of deposits in Virginia despite not operating any retail branches in that state — or any other state, for that matter.

The Justice Department and the banking agencies have already signaled that there's a problem here that needs solving. In September 2020, the Justice Department requested public comment on the efficacy of its 1995 Bank Merger Competitive Review guidelines, a move that typically presages a regulatory review. And after the Fed's May 2021 approval of the acquisition of BBVA USA Bancshares by PNC Financial Services Group, Fed Gov. Lael Brainard expressed particular concern for the increased concentration of banks in the \$250 billion to \$700 billion asset category, a category where, she said, "common-sense safeguards have been weakened."

Although any plan put forth by the Justice Department and the banking agencies may not be released until the beginning of 2022, scholars have already developed something of a roadmap for how to make the bank merger process more equitable and reflective of current market realities.

A 2019 article in the Yale Journal of Regulation by Jeremy C. Kress, assistant professor of business law at the University of Michigan Ross School of Business, argued that the "current approach to evaluating bank merger proposals is poorly suited for modern financial markets" and the traditional focus on competition has been rendered "obsolete" by "changes in bank regulation and market

structure — including the repeal of interstate banking restrictions and the emergence of nonbank financial service providers.” Kress suggests that the merger analysis should emphasize the statutory factors — impacts on financial stability, benefits to the public, and the long-term viability of the companies and banks involved in the proposal — that are outlined in the Bank Merger Act and Bank Holding Company Act.

Regulators could also redouble their efforts to ensure that bank mergers really benefit consumers as much as they benefit the merging firms. One way of doing that might be to orient the merger review process in such a way that regulators begin with the presumption mergers will harm consumers and thus requiring the merging parties to demonstrate the contrary.

Any bank merger revision should also demonstrate that it would not create or sustain so-called banking deserts — communities that lack reasonable access to a bank branch. Having merging firms explain how they plan to address branch redundancies — and how those choices might affect communities that already have limited banking options — seems like important data for regulators to consider.

Banks could manage some of this themselves and make this process less onerous by engaging with vulnerable communities on their own. Although not part of the formal regulatory process, many banks and communities have entered into so-called community benefits agreements, which provide merging banks the opportunity to explain how the post-merger entity will meet its Community Reinvestment Act requirements. The agreements outline lending, investments and philanthropy strategies in low- and moderate-income neighborhoods affected by a merger. Since 2016, the National Community Reinvestment Coalition has facilitated the creation of CBAs worth \$338 billion with 15 banking groups. The largest-to-date plan, finalized in April 2021, was a four-year, \$88 billion agreement between community groups and PNC Bank.

Regulators should also be more skeptical of mergers involving community banks, a problem that has vexed policymakers for years. Small banks tend to serve small communities that larger banks don't, and the rapid consolidation of the smallest banks could limit rural communities' access to capital.

Bank consolidation is not always bad for consumers, but a lack of banking options and access to capital is. As the Justice Department and banking regulators begin their much-needed work overhauling the rules governing bank mergers, they should put the onus on the merging banks to build a case for why their deal helps the community rather than requiring the community to make the case that the deal hurts them.

John M. Pachkowski is a senior legal analyst with Wolters Kluwer Legal & Regulatory U.S.

SUBPRIME LENDING

Subprime auto lender reaches \$27M settlement with Massachusetts AG

By Polo Rocha

September 01, 2021

The subprime auto lender Credit Acceptance Corp. has agreed to pay \$27.2 million to Massachusetts borrowers to settle claims of predatory lending and deceptive debt collection practices brought by state Attorney General Maura Healey.

The settlement announced Wednesday is the latest Healey's office has reached with subprime auto lenders, following a \$5.5 million agreement with Exeter Finance and a \$22 million settlement from Santander Consumer USA.

The settlement with Credit Acceptance — which Healey's office says is the largest of its kind — requires the Michigan-based auto lender to provide debt relief to thousands of Massachusetts borrowers and ensure credit bureaus delete any issues stemming from the loans. More than 3,000 people will be eligible to get a chunk of the monetary settlement.

The company, which did not admit to wrongdoing as part of the settlement, said in a statement that the lawsuit was “vigorously

contested” but is pleased with the resolution because it was in its best interest to bring it to a close.

“The Company looks forward to continuing to serve customers in the Commonwealth of Massachusetts through its financing programs,” it said.

Healey's office had alleged in the lawsuit last year that Credit Acceptance made expensive loans to borrowers who they knew were unable to repay them and subjected them to hidden finance charges that violated the state's usury laws. The lawsuit also alleged the company harassed consumers when looking to collect debt.

“Thousands of Massachusetts consumers, many of them first-time car buyers, put their faith in CAC to help them with an auto loan, but were instead lured into high-cost loans, fell deeper in debt, and even lost their vehicles,” Healey said in a press release.

The lawsuit also alleged that the lender had failed to inform its investors that it included higher-risk loans when bundling its loans into securities.

STRESS TESTS

ECB tells banks to gird for climate tests that may hit dividends

By Bloomberg News

September 01, 2021

The European Central Bank is stepping up pressure on lenders to prepare for stress tests next year that will show just how vulnerable the industry is to climate change, according to people familiar with the process.

The ECB, which earlier this year voiced displeasure over finance industry efforts to respond to climate risks, has sent out confidential documents to banks stating they'll need to provide data on how their balance sheets might fare through 2050, the people said. The regulator also plans to study the link between profits and carbon risk in

banks' portfolios, they said.

In Europe, politicians want banks to become a key plank in the fight against climate change by steering capital away from polluters. Companies in the region, unlike their peers in the U.S., tend to rely more on their lenders than on capital markets for financing. Investors are taking note as banks burdened by carbon-intensive loan books may face higher capital requirements, which could erode their power to pay dividends.

A methodology for banks may come by October, according to one of the people. Banks will have to supply the ECB with information that shows how their portfolios might evolve over periods of 10, 20 and 30 years, said the people, asking not to be identified as the documents are private. An ECB spokesman declined to comment.

The power of environmental, social and governance standards to disrupt the financial industry played out publicly last month as investors dumped shares of DWS Group after it became the target of investigations for alleged greenwashing. Though DWS says it did nothing wrong, the development shows that financial firms, whether banks or asset managers, can no longer afford to underestimate ESG compliance.

The stress tests:

The ECB has said its supervisory arm's stress test next year will rely on banks' assessments of their exposure to climate change and their readiness to address it. The test will also be informed by this year's economywide exercise. The outcomes will be reflected qualitatively by potentially affecting the scores used to calculate individual banks' capital requirements. Yet the ECB has made clear that it will gradually start to treat climate as it would any other risk by reflecting it in those requirements. The ECB said in July that hardly any eurozone banks were adequately prepared for the risks they face from climate change. It will give banks individual feedback on their plans for addressing the deficiencies identified in the self assessments in September, one of the people said.

A broader assessment currently underway at the ECB is set to underscore the financial industry's exposure to global warming. The average default probability in loan portfolios of the 10% of euro-area banks most vulnerable to climate risks could rise by 30% by 2050, according to preliminary findings from the ECB's economywide stress test.

CLIMATE CHANGE

Climate protesters break windows at JPMorgan in London

By Bloomberg News

September 01, 2021

Climate activists broke windows at JPMorgan Chase offices in central London Wednesday as part of two weeks of protests against organizations that support fossil fuels.

Eight women used hammers and chisels to break two windows at the U.S. lender's Embankment office, the Extinction Rebellion protest group said in a statement. The activists added stickers that read: "In case of climate emergency, break glass."

JPMorgan is the market leader in loans to corporate polluters, according to research earlier this year by the Rainforest Action Network. Since nations signed the Paris Agreement to cut emissions in 2015, banks globally have offered more than \$3.8 trillion of fossil-fuel financing. Extinction Rebellion has also criticized the British lenders Barclays, HSBC Holdings and Standard Chartered, whose headquarters were splattered with red paint last week.

JPMorgan has pledged a 35% reduction in "operational carbon intensity" for its oil and gas portfolio by the end of the decade. □

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