

## 2019 – What to Expect Next

Twenty-eighteen has been a rather exciting year for banking compliance. The Economic Growth, Regulatory Relief, and Consumer Protection Act (EGRRCPA) provided immense relief to community banks and also proved that acronyms don't really have to be that short. Updates to the TILA/RESPA Integrated Disclosures (TRID) and the Home Mortgage Disclosure Act (HMDA) have kept everyone on their toes trying to guess what those pesky grey areas mean. Bank officers learned the true meaning of who a "beneficial owner" really is. And not unlike like a Peach from Super Mario, those ever present flood regulations have been saved once again from lapse.

With those show-stoppers, I think I can speak for all of us when I say that twenty-nineteen has a lot to live up to. Though, it does look as though the new year will not disappoint! Major twenty-nineteen provisions set to take effect in the 2019 include: expansion of the Same-Day National Automated Clearing House Association (NACHA) rules; adjustments to the Truth In Lending (TIL) annual thresholds; the Prepaid Account Rule Amendments; and Amendments to Regulations CC (Reg. CC).

First up on this star-studded agenda are the NACHA expansions. In a nut-shell, this expansion to the Same-Day rules was implemented to enable faster funds availability for ACH transactions, elongate Same-Day ACH processing hours, and increase per-transaction dollar limitations. After the initial adoption of the Same-Day rules, the NACHA voting membership approved the aforementioned new set of rules which take effect in three separate phases. Each separate phase has a separate effective date.

The first phase of the expanded rules provides enhanced access to same-day ACH transactions. It allows Same-Day ACH transactions to be submitted for an additional two hours each and every business day. This phase becomes effective on September 20, 2019. The second phase of the expanded rules ups the per-transaction dollar limit from \$25,000 to \$100,000. This means that a single Same-Day ACH transaction will be limited to not being over \$100,000. Any ACH transactions over that \$100,000 limit won't be rejected, though. They will just be processed for next-day settlement rather than Same-Day processing. This phase becomes effective on March 20, 2020. The third and final phase increases the speed of funds availability for certain, specific Same-Day ACH transactions and certain next-day ACH credits. This phase becomes effective on September 18, 2020.

Next on the agenda is the set of TIL threshold adjustments. Now, for seasoned compliance professionals, you know a TIL adjustment is not all that novel. However, they are important and worth mentioning. These adjustments affect open-end consumer credit plans under the CARD Act in that the adjusted dollar amount for the safe harbor in respect to a first violation penalty fee will increase to \$28 – up \$1 from \$27. Under that same CARD Act umbrella, the safe harbor for a subsequent violation penalty fee will also increase \$1 to \$39. For HOEPA loans, the adjusted total loan threshold will be \$21,459, and the adjusted points-and-fees dollar trigger will be \$1,077. Finally, the threshold adjustments for qualified mortgages are as follows:

“the maximum thresholds for total points and fees in 2019 will be 3 percent of the total loan amount for a loan greater than or equal to \$107,747; \$3,232 for a loan amount greater than or equal to \$64,648 but less than \$107,747; 5 percent of the total loan amount for a loan greater than or equal to \$21,549 but less than \$64,648; \$1,077 for a loan amount greater than or equal to \$13,468 but less than \$21,549; and 8 percent of the total loan amount for a loan amount less than \$13,468.”

Notably, however, the threshold that triggers the disclosure requirement for minimum interest charges remains unchanged. It will keep steady at \$1.00 in 2019. These threshold adjustments become effective on January 1, 2019.

Now onto the Prepaid Accounts Rule Amendments (Amendments) – arguably one of the more major regulations to hit in 2019. The Amendments touch upon four areas: (1) the final effective date of the rule’s provisions; (2) error resolution and limited liability under Reg. E; (3) digital wallets; and (4) minor clarifications and adjustments.

The final effective dates set out by the Amendments place the entirety of the rule becoming effective on April 1, 2019. In regards to error resolution and limited liability, the Amendments provide that banks are not required to follow the liability nor error resolution provisions on unverified prepaid accounts other than on payroll card accounts or governmental benefit accounts. Further, for later-verified prepaid accounts, financial institutions are not required to follow those same provisions on disputed transactions that occurred before verification. The Amendments, for digital wallets, provide an exclusion for business relationships between prepaid account issuers and issuers of traditional credit cards from the definition of “business partner.” This would, in turn, exempt the arrangements from the hybrid prepaid credit card rules. Lastly, the Amendments make edits to both Regulation E and Regulation Z to correct typos, provide for more consistency between the rule and the regulations, and to correct other minor oversights. Again – the effective date for these change is April 1, 2019.

Finally, the Reg. CC amendments add a presumption and clarify the scope in disputes involving substitute/electronic checks and alterations/unauthorized signatures. The presumption addition may be summarized as follows: when an original (paper-based) check is not available for inspection, it shall be presumed that a substitute or electronic check was altered in certain situations. It should be noted, however, that the breadth of the presumption is fairly limited.

In conclusion, 2019 will pack quite a punch. Compliance Alliance can help you keep track of these changes, though. One tool I highly recommend is the Regulatory Change Management Tracker: <https://www.compliancealliance.com/find-a-tool/tool/regulatory-change-management-tracker> . It is updated regularly and lists out major provisions that banks should be aware of. If you have any questions, our experts are here to help you! You may reach us at either [hotline@compliancealliance.com](mailto:hotline@compliancealliance.com) or (888) 353-3933.

Author: Sarah E. Saucedo

Date: 12/13/18