Josh Shear

From: DFPI PRA Requests <PRA.Requests@dfpi.ca.gov>
Sent: Sunday, April 9, 2023 5:04 PM
To: Josh Shear
Subject: PRA 0808
Attachments: 1-5 Email.pdf; 1-8 Email.pdf; 1-3 Email.pdf

VIA EMAIL ONLY

Dear Josh Shear:

This letter responds to your request for records to the Department of Financial Protection and Innovation ("DFPI"), made pursuant to the California Public Records Act, Government Code section 7920.000 *et seq.* ("the Act"). You seek:

> *Pursuant to the California Public Records Act (CPRA), Government Code section 7920.000 et seq., I request access to and copies of the following documents, which I have reason to believe are in the possession of the Department of Financial Protection and Innovation ("DFPI"):*
>
> *1. All documents and communications, both written and electronic, exchanged between DFPI staff, including, but not limited to staff of the Executive Office, Communications Division, Consumer Services Division, Division of Consumer Financial Protection, Division of Corporations and Financial Institutions, Enforcement Division, Legal Division, and Legislation Division, and staff of the following federal and state agencies:*
> *a. U.S. Department of the Treasury*
> *b. Office of the Comptroller of the Currency*
> *c. Federal Deposit Insurance Corporation*
> *d. Securities and Exchange Commission*
> *e. United States Federal Reserve System*
> *f. National Economic Council*
> *g. U.S. Department of Justice Office of the Attorney General*
> *h. New York State Department of Financial Services*
>
> *That refers, relates, or discusses the January 3, 2023, joint statement of the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation ("FDIC"), and the Office of the Comptroller of the Currency, entitled "Joint Statement on Crypto-Asset Risks to Banking Organizations," and available at the following link: https://www.fdic.gov/news/press-releases/2023/pr23002a.pdf,*
>
> *3. And was sent between the publication of the joint statement on January 3, 2023, and the date you process this request.*

Your request seeks, in part, copies of records that are exempt from disclosure under express provisions of Financial Code section 159 and the Act. We have determined that your request seeks access to records that are subject to confidential treatment pursuant to Financial Code section 159, subdivision (a), subsections (2) and (3) because it includes licensee-level information, from a financial institution licensee, which is either collected in exams or received in reports and information received in confidence. The information is exempted from the disclosure requirements of the Act based on:

- Government Code section 7929.000, subdivision (b), [records contained in, or related to, examination, operating, or condition reports prepared by, on behalf of, or for the use of, DFPI];

- Government Code section 7929.000, subdivision (c) [records contained in, or related to, preliminary drafts, notes, or interagency and intra-agency communications];
- Government Code section 7929.000, subdivision (d) [records contained in, or related to, information received in confidence]; and
- Government Code section 7927.705 [records that fall within a privilege including official information (Evidence Code section 1040) and deliberative process privileges (*Wilson v.* Superior Court (1996) 51 Cal.App.4th 1136, as modified (Jan. 21, 1997)).

The DFPI is providing electronic copies of the attached disclosable records which have been identified as responsive to your request. Should you have any questions regarding your request to the DFPI, please respond to this email.

Regards,

Charlie Carriere (he/him/his)
Acting Assistant Chief Counsel
California Department of Financial Protection & Innovation

Josh Shear

From: DFPI PRA Requests <PRA.Requests@dfpi.ca.gov>
Sent: Sunday, April 9, 2023 5:31 PM
To: Josh Shear
Subject: PRA0810
Attachments: PRA0810 Response.pdf

VIA EMAIL ONLY

Dear Josh Shear

This letter responds to your request for records to the Department of Financial Protection and Innovation ("DFPI"), made pursuant to the California Public Records Act, Government Code section 7920.000 *et seq.* ("the Act"). You seek:

> *1. All documents and communications, both written and electronic, exchanged between DFPI staff, including, but not limited to staff of the Executive Office, Communications Division, Consumer Services Division, Division of Consumer Financial Protection, Division of Corporations and Financial Institutions, Enforcement Division, Legal Division, and Legislation Division, and staff of the following federal and state agencies:*
>
> *a.U.S. Department of the Treasury*
> *b. Office of the Comptroller of the Currency*
> *c. Federal Deposit Insurance Corporation*
> *d. Securities and Exchange Commission*
> *e. United States Federal Reserve System*
> *f. National Economic Council*
> *g. U.S. Department of Justice Office of the Attorney General*
> *h. New York State Department of Financial Services*
>
> *That refers, relates, or discusses the blog post authored by Brian Deese, Arati Prabhakar, Cecilia Rouse, and Jake Sullivan and published by the White House National Economic Council on January 27, 2023, entitled "The Administration's Roadmap to Mitigate Cryptocurrencies' Risks," and available at the following link: https://www.whitehouse.gov/nec/briefing-room/2023/01/27/the-administrations-roadmap-to-mitigate-cryptocurrencies-risks/,*
>
> *3. And was sent between the blog post's publication on January 27, 2023, and the date you process this request.*

The DFPI identified one document responsive to your request which it is providing as an attachment to this email.

Regards,

California Department of Financial Protection & Innovation

Josh Shear

From: DFPI PRA Requests <PRA.Requests@dfpi.ca.gov>
Sent: Sunday, April 9, 2023 5:51 PM
To: Josh Shear
Subject: FW: PRA0811
Attachments: 2-26 Email.pdf; 2-23 Email 2.pdf; 2-23 Email 3.pdf; 2-23 Email.pdf; 2-25 Email.pdf; 2-26 Email 3.pdf

The previous email containing the response to PRA0811 contained an incorrect description of your request. Please find the corrected language below.

VIA EMAIL ONLY

Dear Josh Shear,

This letter responds to your request for records to the Department of Financial Protection and Innovation ("DFPI"), made pursuant to the California Public Records Act, Government Code section 7920.000 *et seq.* ("the Act"). You seek:

> *1. All documents and communications, both written and electronic, exchanged between DFPI staff, including, but not limited to staff of 1. All documents and communications, both written and electronic, exchanged between DFPI staff, including, but not limited to staff of the Executive Office, Communications Division, Consumer Services Division, Division of Consumer Financial Protection, Division of Corporations and Financial Institutions, Enforcement Division, Legal Division, and Legislation Division, and staff of the following federal and state agencies:*
>
> *a. U.S. Department of the Treasury*
> *b. Office of the Comptroller of the Currency*
> *c. Federal Deposit Insurance Corporation*
> *d. Securities and Exchange Commission*
> *e. United States Federal Reserve System*
> *f. National Economic Council*
> *g. U.S. Department of Justice Office of the Attorney General*
> *h. New York State Department of Financial Services*
>
> *2. That refers, relates, or discusses the February 23, 2023, joint statement of the Board of Governors of the Federal Reserve System, Federal Deposit Insurance Corporation ("FDIC"), and the Office of the Comptroller of the Currency, entitled "Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities," and available at the following link:* *https://www.fdic.gov/news/press-releases/2023/pr23010a.pdf,*
>
> *3. And was sent between the publication of the joint statement on February 23, 2023, and the date you process this request.*

The DFPI identified six documents responsive to your request which it is providing as attachments to this email.

Regards,

California Department of Financial Protection & Innovation

Josh Shear

From: Carriere, Charles@DFPI <Charles.Carriere@dfpi.ca.gov>
Sent: Sunday, April 9, 2023 6:40 PM
To: Josh Shear
Subject: PRA0813

VIA EMAIL ONLY

Dear Josh Shear:

This letter responds to your request for records to the Department of Financial Protection and Innovation ("DFPI"), made pursuant to the California Public Records Act, Government Code section 7920.000 *et seq.* ("the Act"). You seek:

> *Pursuant to the California Public Records Act (CPRA), Government Code section 7920.000 et seq., I request access to and copies of the following documents, which I have reason to believe are in the possession of the Department of Financial Protection and Innovation ("DFPI"):*
>
> *1. All documents and communications, both written and electronic, exchanged between DFPI staff, including, but not limited to staff of the Executive Office, Communications Division, Consumer Services Division, Division of Consumer Financial Protection, Division of Corporations and Financial Institutions, Enforcement Division, Legal Division, and Legislation Division, and staff of the following federal and state agencies:*
>
> *a. U.S. Department of the Treasury*
> *b. Office of the Comptroller of the Currency*
> *c. Federal Deposit Insurance Corporation*
> *d. Securities and Exchange Commission*
> *e. United States Federal Reserve System*
> *f. National Economic Council*
> *g. U.S. Department of Justice Office of the Attorney General*
> *h. New York State Department of Financial Services*
>
> *2. That relate to the provision of banking or financial services to digital-asset (For purposes of this request, the term "digital asset" means an asset that is issued and/or transferred using distributed ledger or blockchain technology, including, but not limited to, so-called "cryptocurrencies," "coins," and "tokens.") customers, digital-asset clients, or digital-asset companies,*
>
> *3. And that was sent between November 1, 2022, and the date you process this request..*

Your request seeks, in part, copies of records that are exempt from disclosure under express provisions of Financial Code section 159 and the Act. We have determined that your request seeks access to records that are subject to confidential treatment pursuant to Financial Code section 159, subdivision (a), subsections (2) and (3) because it includes licensee-level information, from a financial institution licensee, which is either collected in exams or received in reports and information received in confidence. The information is exempted from the disclosure requirements of the Act based on:

- Government Code section 7929.000, subdivision (b), [records contained in, or related to, examination, operating, or condition reports prepared by, on behalf of, or for the use of, DFPI];
- Government Code section 7929.000, subdivision (c) [records contained in, or related to, preliminary drafts, notes, or interagency and intra-agency communications];

- Government Code section 7929.000, subdivision (d) [records contained in, or related to, information received in confidence]; and
- Government Code section 7927.705 [records that fall within a privilege including official information (Evidence Code section 1040), lawyer-client (Evidence Code section 954), attorney work product (Code of Civil Procedure section 2018.030), and deliberative process privileges (*Wilson v*. Superior Court (1996) 51 Cal.App.4th 1136, as modified (Jan. 21, 1997));

The DFPI was unable to identify any disclosable records not subject to one or more of the exemptions above except for general circulation newsletters. If you would like copies of these newsletters, please respond to this email and the Department will provide copies of the newsletters within 7 days of your response.

Regards,

Charlie Carriere (he/him/his)
Acting Assistant Chief Counsel
California Department of Financial Protection & Innovation

Carriere, Charles@DFPI

From: FDIC Subscriptions <subscriptions@subscriptions.fdic.gov>
Sent: Tuesday, January 3, 2023 8:12 PM
To: Nelson, Derek@DFPI
Subject: FDIC Subscriptions Daily Digest Bulletin

FDIC Issues List of Banks Examined for CRA Compliance

01/03/2023

Press Release | January 3, 2023

FDIC Issues List of Banks Examined for CRA Compliance

WASHINGTON - The Federal Deposit Insurance Corporation (FDIC) today issued its list of state nonmember banks recently evaluated for compliance with the Community Reinvestment Act (CRA). The list covers evaluation ratings that the FDIC assigned to institutions in October 2022.

The CRA is a 1977 law intended to encourage insured banks and thrifts to meet local credit needs, including those of low- and moderate-income neighborhoods, consistent with safe and sound operations. As part of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA), Congress mandated the public disclosure of an evaluation and rating for each bank or thrift that undergoes a CRA examination on or after July 1, 1990.

You may obtain a consolidated list of all state nonmember banks whose evaluations have been made publicly available since July 1, 1990, including the rating for each bank, or obtain a hard copy from FDIC's Public Information Center, 3501 Fairfax Drive, Room E-1002, Arlington, VA 22226 (877-275-3342 or 703-562-2200).

A copy of an individual bank's CRA evaluation is available directly from the bank, which is required by law to make the material available upon request, or from the FDIC's Public Information Center.

Attachments:

- January 2023 List of Banks Examined for CRA Compliance
- Monthly List of Banks Examined for CRA Compliance

###

MEDIA CONTACT:
LaJuan Williams-Young
202-898-3876
lwilliams-young@FDIC.gov

FDIC: **PR-1-2023**

Agencies Issue Joint Statement on Crypto-Asset Risks to Banking Organizations

01/03/2023

Joint Agency Release | January 3, 2023

Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency

Agencies Issue Joint Statement on Crypto-Asset Risks to Banking Organizations

Federal bank regulatory agencies today issued a statement highlighting key risks for banking organizations associated with crypto-assets and the crypto-asset sector and describing the agencies' approaches to supervision in this area.

In particular, the statement describes several key risks associated with crypto-assets and the crypto-asset sector, as demonstrated by the significant volatility and vulnerabilities over the past year. Given these risks, the agencies continue to take a careful and cautious approach related to current and proposed crypto-asset-related activities and exposures at banking organizations. The agencies continue to assess whether or how current and proposed crypto-asset-related activities by banking organizations can be conducted in a manner that is safe and sound, legally permissible, and in compliance with applicable laws and regulations, including those designed to protect consumers.

The agencies will continue to closely monitor crypto-asset-related exposures of banking organizations, and, as warranted, will issue additional statements related to engagement by banking organizations in crypto-asset related activities.

Attachment: Joint Statement on Crypto-Asset Risks to Banking Organizations (PDF)

###

MEDIA CONTACTS:

Federal Reserve	Darren Gersh	(202) 452-2955
FDIC	Carroll Kim	(202) 898-7389
OCC	Stephanie Collins	(202) 649-6870

FDIC: PR-2-2023

Questions for FDIC?
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Carriere, Charles@DFPI

From:	FDIC Subscriptions <subscriptions@subscriptions.fdic.gov>
Sent:	Thursday, January 5, 2023 9:11 PM
To:	Merrill, Christopher@DFPI
Subject:	FDIC Subscriptions Daily Digest Bulletin

Joint Statement on Crypto-Asset Risks to Banking Organizations

01/05/2023

Financial Institution Letter | January 5, 2023

Joint Statement on Crypto-Asset Risks to Banking Organizations

Summary:

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (collectively, the agencies) are issuing a joint statement on crypto-asset risks to banking organizations.

Statement of Applicability:

This Financial Institution Letter (FIL) applies to all FDIC-supervised institutions.

Distribution:

FDIC-Supervised Institutions

Attachment:

Joint Statement on Crypto-Asset Risks to Banking Organizations

Read the FIL

Stay Connected

Carriere, Charles@DFPI

From: FDIC Subscriptions <subscriptions@subscriptions.fdic.gov>
Sent: Sunday, January 8, 2023 7:39 AM
To: Cruz, Milton@DFPI
Subject: FDIC Subscriptions Weekly Digest Bulletin

Joint Statement on Crypto-Asset Risks to Banking Organizations

01/05/2023

Financial Institution Letter | January 5, 2023

Joint Statement on Crypto-Asset Risks to Banking Organizations

Summary:

The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency (collectively, the agencies) are issuing a joint statement on crypto-asset risks to banking organizations.

Statement of Applicability:

This Financial Institution Letter (FIL) applies to all FDIC-supervised institutions.

Distribution:

FDIC-Supervised Institutions

Attachment:

Joint Statement on Crypto-Asset Risks to Banking Organizations

Read the FIL

Stay Connected

From: Leyes, Mark@DFPI
Sent: Wednesday, February 8, 2023 12:00 PM
To: DFPI All Employees
Subject: DFPI Daily Clips – DFPI 02/08/23

DEPARTMENT OF FINANCIAL PROTECTION AND INNOVATION

1. The SEC and State Regulators Target Crypto Lending in Nexo Settlement *(DFPI citation)*
F. Phillip Hosp V & Patrick D. Daugherty
Foly & Lardner LLP
February 7, 2023

On January 26, 2022, the California Department of Financial Protection and Innovation (DFPI) announced its participation in a $22.5 million multi-state settlement with Nexo Capital Inc. (Nexo) relating to unregistered securities offerings in connection with the company's retail crypto lending product.
https://www.foley.com/en/insights/publications/2023/02/sec-state-regulators-target-crypto-lending-nexo

2. Troutman Pepper Weekly Consumer Financial Services Newsletter - February 2023 *(DFPI citation)*
Elizabeth Briones, et.al. (Troutman Pepper Hamilton Sanders LLP)
JD Supra
February 7, 2023

…On January 30, the California Department of Financial Protection and Innovation (DFPI) announced that it commenced enforcement actions against multiple debt collectors for unlicensed activity under the Debt Collection Licensing Act and unlawful and deceptive acts or practices in violation of the California Consumer Financial Protection Law.
https://www.jdsupra.com/legalnews/troutman-pepper-weekly-consumer-2787301/

3. OppFi's Lending Platform OppLoans Launches Same-Day Funding Service *(DFPI citation)*
Press Release
Associated Press (AP)
February 7, 2023

OppFi Inc. (NYSE:OPFI) ("OppFi" or the "Company"), a mission-driven fintech platform that helps everyday Americans gain access to credit with digital specialty finance products, announced the launch of a same-day funding service on its OppLoans lending platform and the milestone of surpassing one million unique customers over its 10-year history.
https://apnews.com/press-release/business-wire/business-51259f5ea998473c8ce69f8f9cca93f0

4. Assembly Member Takes Another Run At Digital Financial Asset Law *(DFPI citation)*
Keith Bishop (Allen Matkins LLP)

R

National Law Review
February 7, 2023

In June of last year, noted the introduction of a bill that would subject digital financial asset businesses to licensing in California. In September, Governor Gavin Newsom vetoed the bill stating that it would be "premature to lock a licensing structure in statute".
https://www.natlawreview.com/article/assembly-member-takes-another-run-digital-financial-asset-law

5. BankThink: Brokered Deposits Add New Wrinkle to Silvergate Saga
John Heltman
American Banker (subscription required)
February 7, 2023

…The FDIC has rules around which banks can accept brokered deposits and what a bank has to do to make up for their loss if it accepts them and they go elsewhere. That changed in 2020 when then-FDIC Chair Jelena McWilliams and her allies on the board fleshed out a "primary purpose exemption" from the brokered deposit rules that would allow more types of deposit arrangements to be exempt from those "hot money" restrictions.
https://www.americanbanker.com/opinion/brokered-deposits-add-new-wrinkle-to-silvergate-saga

6. Fed's Barr Aims to 'Eradicate' Racial Discrimination in Banking
Kyle Campbell
American Banker (subscription required)
February 7, 2023

The Federal Reserve's top regulator wants to "eradicate discrimination" from the financial services sector and he's ready to use all the tools at his disposal to do so.
https://www.americanbanker.com/news/feds-barr-aims-to-eradicate-racial-discrimination-in-banking

7. Banks Tighten Credit Standards, Loan Demand Wanes
Jim Dobbs
American Banker (subscription required)
February 7, 2023

Loan demand is flagging in all major categories and, at the same time, bankers are raising the bar on who qualifies for credit, setting the stage for slower growth in 2023.
https://www.americanbanker.com/news/banks-tighten-credit-standards-loan-demand-wanes

8. Could Gift Cards Help Earned-Wage-Access Users Stretch Their Funds?
Kate Fitzgerald
American Banker (subscription required)
February 6, 2023

Earned wage access programs — which allow employees to access a portion of their paycheck ahead of schedule — are cheaper than payday loans, but often come with fees attached. One provider flips the script by offering users a bonus instead.

https://www.americanbanker.com/payments/news/could-gift-cards-help-earned-wage-access-users-stretch-their-funds

9. Should You Use a Personal Loan to Pay Off Student Loans?
Jennifer Calonia
Forbes
February 7, 2023

Leaving college can feel bittersweet, especially when you start repaying the loans you borrowed for your education. And you may repay quite a lot—graduates who earned a bachelor's degree in 2021 amassed an average of $29,100 in student loan debt, according to the College Board.
https://www.forbes.com/advisor/student-loans/personal-loan-to-pay-off-student-loans/

FULL TEXT OF 02/07/23 FOLEY & LARDNER LLP ARTICLE:

The SEC and State Regulators Target Crypto Lending in Nexo Settlement

By F. Phillip Hosp V & Patrick D. Daugherty, FOLEY & LARDNER LLP – February 7, 2023

On January 26, 2022, the **California Department of Financial Protection and Innovation** (DFPI) announced its participation in a $22.5 million multi-state settlement with Nexo Capital Inc. (Nexo) relating to unregistered securities offerings in connection with the company's retail crypto lending product. In a parallel action filed by the Securities and Exchange Commission (SEC), Nexo agreed to pay the SEC an additional $22.5 million in fines to settle similar charges. In both cases, regulators alleged that Nexo offered and sold its "Earn Interest Product" (EIP) accounts to new and/or existing investors in the United States, which allegedly enabled investors to passively earn interest by loaning certain digital assets to Nexo.

Although Nexo is an off-shore company, the DFPI, other state regulators, and the SEC launched investigations and filed actions in multiple jurisdictions alleging that Nexo offered and sold unregistered or unqualified securities to retail investors in the United States, including California. Nexo allegedly promoted the EIP to investors primarily through its website by providing a list of supported virtual currencies and their corresponding interest rates. It also allegedly promoted the EIP on social media through various platforms, including Twitter, Instagram, and YouTube.

The Nexo settlements reflect a heightened awareness and commitment of resources by federal and state agencies in regulating and prosecuting lenders operating in the digital asset and cryptocurrency space. Despite the lack of any formal rulemaking process governing crypto lending, the SEC has adopted a broad view of what is a security and pursued enforcement actions against crypto lenders, regardless of whether investors were actually harmed. Last year, the SEC and the states extracted a $100 million settlement from BlockFi Lending LLC relating to its crypto loan program. Half of that was to be paid to the SEC, the other half to multiple states, but in the meantime, BlockFi has gone bankrupt.

Last month, SEC Commissioner Hester Peirce criticized this “regulation-by-arbitrary-and-tardy-enforcement-actions approach” as “the opposite of a rational regulatory framework” and stated that the SEC “needs to conduct better, more precise, and more transparent legal analysis” in developing a coherent legal framework for crypto.

Although the DFPI has invited comments on the regulation of crypto asset-related financial products, it has not yet adopted any formal rules regulating crypto lending. However, as with the SEC, the DFPI has adopted a broad interpretation of “securities” to include crypto lending products and found that crypto lending platforms are covered “persons” or “service providers” under the California Financial Code. Notably, in announcing the Nexo settlement, DFPI Commissioner Clothilde Hewlett singled out “[n]ewer financial services companies, especially those involved with crypto assets” and stated that the Nexo settlement “is a part of a larger DFPI effort to investigate companies that offer crypto interest accounts.”

Therefore, it is apparent that companies offering crypto asset lending products are under the microscope, and regulators will pursue enforcement actions before engaging in a formal rulemaking process to clarify the legal framework that governs these financial products. No company should enter the business without competent banking and crypto law advice.

FULL TEXT OF 02/07/23 JD SUPRA ARTICLE:

Troutman Pepper Weekly Consumer Financial Services Newsletter - February 2023

By Elizabeth Briones, et.al. (Troutman Pepper Hamilton Sanders LLP), JD SUPRA – February 7, 2023

To help you keep abreast of relevant activities, below find a breakdown of some of the biggest events at the federal and state levels to impact the Consumer Finance Services industry this past week:

Federal Activities:

- On February 3, while delivering remarks at the American Bar Association Business Law Section Derivatives and Futures Law Committee Winter Meeting, Commodities Futures and Trading Commission (CFTC) Chairman Rostin Benham noted that “there remains a gap in crypto cash market regulation for non-security tokens, and [he] believes the CFTC is well positioned to fill this specific gap if Congress so chooses.” For more information, click here.
- On February 3, the U.S. District Court for the Northern District of Illinois dismissed with prejudice claims that Townstone Financial, Inc. and its owner violated Equal Credit Reporting Act by engaging in discriminatory marketing and applicant outreach practices. For more information, click here.
- On February 1, a U.S. District Court for the Southern District of New York federal judge granted Coinbase, Inc.’s (Coinbase) motion to dismiss a putative class-action lawsuit that alleged Coinbase and its founder enabled Coinbase users to buy and sell 79 different unregistered securities in the form of digital assets (tokens) in violation of federal securities laws due to Coinbase’s purported failure to register with the Securities and Exchange Commission as a securities exchange. The class consisted of “all persons or entities that transacted in the Tokens”

on Coinbase's exchange platform between October 8, 2019 through March 11, 2022 — the class-action lawsuit filing date. Specifically, the class argued that Coinbase was a "statutory seller" of unregistered securities under Section 12(a)(1) of the Securities Act. Under the U.S. Supreme Court decision Pinter v. Dahl, a defendant constitutes a "statutory seller" if the defendant (1) passed title, or other interest in the security, to the buyer for value; and (2) solicited the purchase of a security motivated in part by the defendant's own financial interests. The court granted Coinbase's motion to dismiss for two reasons: (1) Coinbase could not obtain title of the tokens under the terms of use agreement it entered with its customers, which stated: "Title to Digital Currency shall at all times remain with you and shall not transfer to Coinbase," and (2) although the class alleged that Coinbase promoted the sale of the tokens by participating in "airdrops" of the tokens and providing news updates on the price movements of the tokens, the class failed to allege that its selling and purchasing of the tokens resulted from Coinbase's "direct solicitation." For more information, click here.

- On February 1, the Office of the Comptroller of the Currency (OCC) issued a bulletin to inform banks and OCC examining personnel that the loan origination threshold for reporting Home Mortgage Disclosure Act data on closed-end mortgage loans has changed. Due to a recent court decision, the threshold for reporting is now 25 closed-end mortgage loans originated in each of the two preceding calendar years. For more information, click here.
- On February 1, the Department of Justice filed a complaint on behalf of the Federal Trade Commission (FTC) against GoodRX for allegedly violating the FTC Act and the Health Breach Notification Rule by failing to notify consumers that it was disclosing their personal health information to third parties for advertising purposes. For more information, click here.
- On January 30, digital news provider Axios reported that crypto-lending firm Gemini Trust Company LLC (Gemini) led its customers to believe that the Federal Deposit Insurance Corporation (FDIC) fully insured its stablecoin, GUSD, and its interest-bearing cryptocurrency deposit product, Gemini Earn. The terms of use agreement Gemini entered with its customers contains an FDIC insurance section that expressly asserts that digital assets held on its platform are not FDIC-insured: "Digital Assets held in your Digital Asset account, including your Gemini Dollars [GUSD], are not subject to deposit insurance protection, including but not limited to, FDIC insurance or Securities Investor Protection Corporation protections." However, according to the Axios report, Gemini seemingly reassured its customers that their GUSD and Gemini Earn deposits were safe and secure. Genesis Global Capital LLC (Genesis), the entity responsible for providing interest payments to Gemini Earn accountholders, filed for bankruptcy on January 20 after announcing its decision to pause withdrawals of Gemini Earn deposits. At the time of its bankruptcy filing, Genesis possessed approximately $900 million worth of Gemini Earn deposits. For more information about the Axios report, click here.
- On January 30, Senators Elizabeth Warren (D-MA), John Kennedy (R-LA), and Roger Marshall (R-KS) issued a letter to Silvergate Bank concerning Silvergate's role in transferring FTX customer funds to FTX's partner firm and cryptocurrency hedge fund Alameda Research. The 2023 letter constitutes a follow-up response to the senators' December 5, 2022 letter sent to Silvergate. Notably, the 2023 letter describes Silvergate's response to the 2022 letter as "evasive and incomplete" and lacking "information needed to assess the extent to which Silvergate is responsible for the improper transfer of FTX customer funds to Alameda … ." For more information, click here.
- On January 30, Federal Housing Administration (FHA) announced that it will expand and enhance its set of loss mitigation options used to help borrowers struggling to make mortgage payments on their FHA-insured mortgages. The enhancements will extend FHA's COVID-19 loss mitigation options to all eligible borrowers who fall behind on their mortgage payments, regardless of the cause of their delinquency. The updates also will enable mortgage servicers to use the full 30% of FHA's partial claim option, rather than the previously permitted 25%, to help maximize the number of borrowers able to retain their homes. Although the changes become effective on April 30,

mortgage servicers may begin immediately offering these options to borrowers. For more information, click here.

- On January 27, the Federal Reserve Board issued a policy statement to promote a level playing field for all banks with a federal supervisor, regardless of deposit insurance status. The statement makes clear that Fed-supervised uninsured and insured banks will be subject to the same limitations on activities, including novel banking activities, such as crypto-asset-related activities. For more information, click here.
- On January 27, the FDIC released a list of 17 administrative enforcement action orders taken against banks and individuals in December 2022; currently, no administrative hearings occur in February 2023. The administrative enforcement actions in those orders consisted of one order to pay civil money penalty, two consent orders, one combined personal consent order and order to pay, two Section 19 orders, four prohibition orders, and seven orders of termination of insurance. For more information, click here.
- On January 27, the Biden administration issued a blog titled, "The Administration's Roadmap to Mitigate Cryptocurrencies' Risks." In the blog, the administration pinpointed certain risks currently associated with digital assets and how the administration intends to limit the extent by which consumers, as well as financial institutions, are subject to those risks. For example, the administration examined "misuses of customers' assets" and potential disclosure requirement solutions that would enable investors to "make more informed decisions about financial risks" associated with digital asset investing. For more information, click here.
- On January 26, Representative French Hill (R-AK), the inaugural chairman of the newly established subcommittee of the U.S. House Financial Services Committee — the Subcommittee on Digital Assets, Financial Technology, and Inclusion — delivered remarks on CNBC's Squawk Box and noted that although "blockchain is not ready for real-time payments," "blockchain and distributed ledger technologies are part of [the future of fintech]." For more information, click here.
- On January 26, the International Swaps and Derivatives Association (ISDA) published a whitepaper concerning a new standard for trading digital asset derivatives through the ISDA Digital Asset Derivatives Definitions, intended to establish an "unambiguous contractual framework" to reduce credit and market risk in digital asset derivatives transaction by setting clear provisions for execution and settlement. For more information, click here.

State Activities:

- On February 3, the New Jersey Bureau of Securities (NJ Bureau) issued cease-and-desist orders to MetaCapitals Ltd., Cresttrademining Ltd., and Forex Market Trade, and accused each company of either selling unregistered securities, making materially misleading statements of material fact to New Jersey residents, or acting as a broker-dealer in violation of state securities laws. According to the NJ Bureau, each of these companies engaged in "pig butchering" scams that require a fraudster to gain a victim's trust before manipulating the victim to invest his/her funds into a phony investment controlled by the fraudster. For more information related to the cease-and-desist order entered against MetaCapitals Ltd., click here. For more information related to the cease-and-desist order entered against Cresttrademining Ltd., click here. For more information related to the cease-and-desist order entered against Forex Market Trade, click here.
- On February 2, the Supreme Court of Illinois held that the five-year statute of limitations in Illinois Code Section 13-205 applies to actions filed under the Biometric Information Privacy Act (BIPA). The plaintiff filed a class-action lawsuit against his former employer, alleging that his employer violated sections of the BIPA regulating the retention and deletion of biometric information, as well as sections governing the consensual collection and disclosure of biometric identifiers and information, when it scanned the plaintiff's fingerprints. The plaintiff's employer moved to dismiss the complaint as untimely, arguing that the one-year limitations period in another section of the

Illinois Code applied. The circuit court found that the five-year statute of limitations applied, noting that although the BIPA is a privacy statute, the one-year statute applies in cases where publication of biometric data is at issue, which, as the court found, was not the case with the plaintiff's claims. The appellate court decided, however, that the one-year statute of limitations was appropriately applied to claims where publication or disclosure of biometric data is an element of the claim. Ultimately, the Illinois Supreme Court determined the BIPA claims were subject to a five-year limitations period. For more information, click here.

- On February 1, District of Columbia Mayor Muriel Bowser signed B25-0015 — the Public Health Emergency Credit Alert Extension Congressional Review Emergency Amendment Act of 2023. The bill extends certain requirements and limitations on credit reporting agencies and users of credit reports. Among other things, the bill requires credit reporting agencies to accept a personal statement from a consumer, indicating that the consumer experienced financial hardship due to a public emergency and notifying residents of the right to request a personal statement. Additionally, the bill prohibits users of information from considering adverse information in a report resulting from the consumer's action or inaction during the public health emergency. The bill allows consumers a private right of action for violations of the provisions contained therein. The bill will remain in effect for 90 days. For more information, click here.
- On February 1, the Superintendent of Financial Services Adrienne Harris announced that the New York State Department of Financial services completed the process for adopting new commercial financing regulation 23 NYCRR 600. The regulation applies to multiple types of commercial financing products and requires providers to issue disclosures when "extending a specific offer" for various types of commercial financing. For more information, click here.
- On January 30, the **California Department of Financial Protection and Innovation** (DFPI) announced that it commenced enforcement actions against multiple debt collectors for unlicensed activity under the Debt Collection Licensing Act and unlawful and deceptive acts or practices in violation of the California Consumer Financial Protection Law. The desist-and-refrain orders allege that, among other things, the named companies attempted to collect debts that a consumer did not owe, made false claims of pending lawsuits, unlawfully threatened to seize property, and failed to provide validation notices as required by federal law. In addition to thwarting the subject companies' continued violations of the state's consumer protection laws, the DFPI also seeks penalty payments, totaling $120,000. For more information, click here.
- On January 26, the California Department of Motor Vehicles (CA DMV) announced its collaboration with liquid proof-of-stake-based blockchain Tezos and crypto-software developer firm Oxhead Alpha to launch a proof-of-concept blockchain to create digital representations of auto titles through non-fungible tokens (NFTs), which will enable the CA DMV to remove persistent points of friction in the auto title process. For more information about NFTs, click here. For more information about the CA DMV's collaborative auto title project, click here.

FULL TEXT OF 02/07/23 ASSOCIATED PRESS (AP) ARTICLE:

OppFi's Lending Platform OppLoans Launches Same-Day Funding Service

By Press Release, ASSOCIATED PRESS (AP) – February 7, 2023

CHICAGO—(BUSINESS WIRE)—Feb 7, 2023 — OppFi Inc. (NYSE:OPFI) ("OppFi" or the "Company"), a mission-driven fintech platform that helps everyday Americans gain access to credit with digital specialty finance products, announced the launch of a same-day funding service on its OppLoans lending platform and the milestone of surpassing one million unique customers over its 10-year history.

In collaboration with the banks that OppFi powers, qualified customers who apply and are approved by 1:00 pm ET on a business day are eligible for funding on the same day their applications are approved. Approximately one-third of customers through the OppFi platform have received funds on the same day their applications were approved since the launch of this feature.

The same-day funding service supports OppFi's overall commitment to improving customer financial health. The Company also provides access to financial education and local resources, as well as borrower assistance and payment deferral in the event of hardship. As part of OppFi's commitment to help customers build a better financial path through more resources, education and support, the Company maintains relationships with a suite of social impact-focused organizations whose services OppFi customers can access for free. OppFi seeks to add relationships with organizations that share its social impact mission. Current relationships include:

- ***Steady*** – which provides customers access to tools and resources to secure opportunities to increase personal income, including customized insights and cash incentives.
- ***SpringFour*** – which provides customers access to more than 20,000 vetted nonprofit and government resources in 30 different categories to help consumers meet financial objectives, reduce household expenses and avoid payment delinquencies.
- ***Experian Boost ®*** – which provides customers a free to use, first-of-its-kind product to potentially improve their FICO® Score with alternative data by including on-time utility, telecom, rent and certain streaming service payments in scoring methodology.*

In addition, through the OppFi platform, customers are provided with industry-leading features and protections, including: simple interest, installment loans with no balloon payments, no ancillary fees (neither origination, nor late, nor insufficient funds), and no prepayment penalties; reporting to the major credit bureaus; and a proprietary loan referral initiative, the OppFi TurnUp Program, which helps consumers find more affordable credit options by checking the market voluntarily on behalf of applicants for sub-36% APR products.

"By offering same-day funding and valuable social impact tools on our platform, we're meeting a diverse set of financial needs for customers," said Todd Schwartz, Chief Executive Officer and Executive Chairman of OppFi. "Our platform has industry-leading features that further distinguish OppLoans in the marketplace and enhance our mission to facilitate safe, simple, and more affordable credit access to the 60 million Americans who are underserved by banks and other financial institutions. We are very excited to have surpassed the one million unique customer milestone in our history and appreciate the trust that customers have placed in us."

*Results will vary. Not all payments are boost-eligible. Some users may not receive an improved score or approval odds. Not all lenders use Experian credit files, and not all lenders use scores impacted by Experian Boost®.

About OppFi

OppFi (NYSE: OPFI) is a mission-driven fintech platform that helps everyday Americans gain access to credit with digital specialty finance products. Through its unwavering commitment to customer service, the Company supports consumers, who are turned away by mainstream options, to build better financial health. OppFi maintains a 4.6/5.0 star rating on Trustpilot with more than 3,600 reviews, making the Company one of the top consumer-rated financial platforms online, and an A+ rating from the Better Business Bureau (BBB). For more information, please visit oppfi.com.

Forward-Looking Statements
This press release includes "forward-looking statements" within the meaning of the "safe harbor" provisions of the Private Securities Litigation Reform Act of 1995, Section 27A of the Securities Act of 1933, as amended, and Section 21E of the Securities Exchange Act of 1934, as amended. OppFi's actual results may differ from its expectations, estimates and projections and consequently, you should not rely on these forward-looking statements as predictions of future events. Words such as "expect," "estimate," "project," "budget," "forecast," "anticipate," "intend," "plan," "may," "will," "could," "should," "believes," "predicts," "potential," "possible," "continue," and similar expressions may identify forward-looking statements, but the absence of these words does not mean that a statement is not forward-looking. These forward-looking statements include, without limitation, future services, features, and protections offered by the OppFi platform and the benefits of the social impact relationships on OppFi's business and for its customers. These forward-looking statements are based on OppFi's current expectations and assumptions about future events and are based on currently available information as to the outcome and timing of future events. These forward-looking statements involve significant risks and uncertainties that could cause the actual results to differ materially from the expected results. Most of these factors are outside OppFi's control and are difficult to predict. Factors that may cause such differences include, but are not limited to: the impact of inflation on OppFi's business; the impact of COVID-19 on OppFi's business; the impact of stimulus or other government programs; whether OppFi will be successful in obtaining declaratory relief against the ***Commissioner of the Department of Financial Protection and Innovation for the State of California****; whether OppFi will be subject to AB 539; whether OppFi's bank partners will continue to lend in California and whether OppFi's financing sources will continue to finance the purchase of participation rights in loans originated by OppFi's bank partners in California; the risk that the business combination disrupts current plans and operations; the ability to recognize the anticipated benefits of the business combination, which may be affected by, among other things, competition, the ability of OppFi to grow and manage growth profitably and retain its key employees; risks related to new products; concentration risk; costs related to the business combination; changes in applicable laws or regulations; the possibility that OppFi may be adversely affected by other economic, business, and/or competitive factors; risks related to management transitions; and other risks and uncertainties indicated from time to time in OppFi's filings with the United States Securities and Exchange Commission, in particular, contained in the section or sections captioned "Risk Factors." OppFi cautions that the foregoing list of factors is not exclusive, and readers should not place undue reliance upon any forward-looking statements, which speak only as of the date made. OppFi does not undertake or accept any obligation or undertaking to release publicly any updates or revisions to any forward-looking statements to reflect any change in its expectations or any change in events, conditions or circumstances on which any such statement is based.*

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SOURCE: OppFi

FULL TEXT OF 02/07/23 NATIONAL LAW REVIEW ARTICLE:

Assembly Member Takes Another Run At Digital Financial Asset Law

By Keith Bishop (Allen Matkins LLP), NATIONAL LAW REVIEW – February 7, 2023

In June of last year, noted the introduction of a bill that would subject digital financial asset businesses to licensing in California. See California Fingers Digital Financial Asset Businesses For Licensing. In September, Governor Gavin Newsom vetoed the bill stating that it would be "premature to lock a licensing structure in statute". He also claimed that establishing a "new regulatory program is a costly undertaking, and this bill would require a loan from the general fund in the tens of millions of dollars for the first several years".

The author of the doomed bill, Assembly Member Timothy S. Grayson, is now taking another run at subjecting the digital financial asset business to licensing and oversight by the **Department of Financial Protection & Innovation**. The new bill, AB 39, has two principal co-authors - Assembly Member Cottie Petrie-Norris and Senator Monique Limón. This iteration, like it unbirthed predecessor, leaves unanswered the question whether digital financial assets are securities. See California Bill Would Regulate Digital Financial Assets, But Leaves Status Under Securities Laws Unanswered.

FULL TEXT OF 02/07/23 AMERICAN BANKER ARTICLES:

BankThink: Brokered Deposits Add New Wrinkle to Silvergate Saga

By John Heltman, AMERICAN BANKER – February 7, 2023

The ancient Greek myth of Cassandra goes something like this: The daughter of King Priam and Queen Hecuba of Troy (and sister of the Trojan hero Hector) was very beautiful and charming, and through no fault of her own caught the eye of Apollo. Apollo, being the god of the sun, light, music, poetry and lots of other things, wanted to marry Cassandra and to sweeten the deal gave her the gift of prophecy — the ability to see the future. What happens next is subject to some debate, but Cassandra either intentionally or unintentionally slighted Apollo's advances, which is a big no-no in Greek mythology. Because Greek myth rules forbid a god from taking back a gift once bestowed, Apollo afflicted Cassandra with a curse — no one would ever believe Cassandra's prophecies.

I wonder if Federal Deposit Insurance Corp. Chair Martin Gruenberg feels that way now. Way back in 2020, when the FDIC board was voting on changes to the agency's brokered deposit rules, Gruenberg warned that the then-proposed changes would allow a bank to "rely for 100% of its deposits on a sophisticated, unaffiliated third party without any of those deposits considered brokered." The risk of that arrangement, he said, was that a bank whose capital levels fell into dangerous territory could continue relying on a single counterparty for the entirety of its deposit base, effectively creating "an end-run around the statutory prohibition on less-than-well-capitalized banks receiving brokered deposits."

If you don't spend a lot of time thinking about brokered deposits or even knowing what they are, you are very far from alone. The gist of it is this: You and I deposit our money in a bank, and we get whatever return we get. But if you have lots of deposits that you can move all at once, you can jump from bank to bank seeking the highest rate of return. Those are brokered deposits, and what makes them different is that a bank can't necessarily rely on them to stick around, particularly when the going gets tough — that's why they're sometimes called "hot money."

The FDIC has rules around which banks can accept brokered deposits and what a bank has to do to make up for their loss if it accepts them and they go elsewhere. That changed in 2020 when then-FDIC Chair Jelena McWilliams and her allies on the board fleshed out a "primary purpose exemption" from the brokered deposit rules that would allow more types of deposit arrangements to be exempt from those "hot money" restrictions.

The rationale behind those changes was that fintechs and other newfangled firms sometimes develop exclusive deposit-taking arrangements with a bank, and because the nonbank counterparty's primary purpose in the relationship isn't maximizing deposit return, those deposits shouldn't be considered "hot" in the same way traditional brokered deposits are because they're less likely to be lured away by higher returns elsewhere.

But, as it turns out, there's more than one way to lose a deposit. If, for example, one of those exclusive banking arrangement partners is itself taking customer funds in exchange for cryptocurrency and those customers decide they'd rather have their money back than have their cryptocurrency, the bank is suddenly experiencing a run. That's not a problem if the bank has a broad and diverse deposit base, but if it's not, then it can be a problem, and something like that seems to be what happened to Silvergate Bank late last year.

This begs an important question with a vexingly nebulous answer: Would anything have been different for Silvergate if the brokered deposit rules had never been changed back in 2020? Brian Brooks, who was acting comptroller of the currency when those rules were adopted, says no — in fact, he says, Silvergate's use of brokered deposits went up when the rest of its deposits were flowing out. As of last June, neither FTX nor its subsidiary Alameda Research had applied for or received a primary purpose exemption, so that gives some credence to Brooks' point.

But that hasn't stopped critics from insisting that there is smoke coming from the brokered deposit rule, and that concern is justified when one looks at which companies have acquired an exemption. The crypto exchanges Coinbase and Paxos have gotten them, as have lots of broker-dealers, PayPal, cannabis deposits and other not-so-mom-and-pop operations. Seems like whomever the intended beneficiaries of the primary purpose exemption might have been, there are a lot of bedfellows in that exemption that might not have been intended.

The ultimate question is whether the Silvergate run is a confluence of unique factors that could only apply to one bank at one time, or whether it is illustrative of a broader risk that is replicable by other institutions and at a scale that could create a risk to financial stability — or whether the conditions are ripe for such a risk to accumulate over time. I don't know the answer to that question, but fortunately it doesn't really matter what I think. But it very much matters what Martin Gruenberg thinks about brokered deposits today, and how different it is from what he said he thought about them in 2020.

Fed's Barr Aims to 'Eradicate' Racial Discrimination in Banking

By Kyle Campbell, AMERICAN BANKER – February 7, 2023

The Federal Reserve's top regulator wants to "eradicate discrimination" from the financial services sector and he's ready to use all the tools at his disposal to do so.

Fed Vice Chair for Supervision Michael Barr delivered a speech on financial inclusion Tuesday afternoon at Jackson State University, a historically Black research university in Mississippi. In it, he said the central bank would incorporate screening for discriminatory practices into all of its supervision practices, including evaluating applications for mergers and acquisitions.

"Congress provided regulators with supervisory and enforcement tools to help ensure that supervised firms resolve consumer protection weaknesses as well as the more pervasive risk management issues that often lead to those weaknesses," Barr said. "We have a close working relationship with the Consumer Financial Protection Bureau and other regulators and integrate other regulators' consumer-focused reviews—such as examinations for unfair, deceptive, or abusive acts or practices, as well as fair lending—into our assessments of bank holding companies, including in the context of applications for mergers and acquisitions."

During his prepared remarks, Barr highlighted racial wealth gaps, the difficulties Black-owned small businesses have in obtaining credit and the fact that Black households are nearly six times as likely to be unbanked as their white counterparts. He said many of these issues are part of the "long shadow" of past discriminatory practices at banks and policies set by the U.S. government.

"For most of our country's history, the United States government and many state and local governments, as well as many private individuals, corporations, and organizations, did not merely fail to protect minorities from discrimination, they actively reinforced segregation, entrenched inequality, and enforced unequal policies," he said, "including through brutal violence."

Barr pointed to auto and small-business lending as areas of top concern for bank regulators, noting the Black borrowers have faced higher interest rates and more restricted access to these products than their white peers.

He also expressed concerns around mortgage lending, singling out residential appraisals as an area of keen focus for the Fed and other regulators, picking up on a subject that has been a top priority for the Biden administration in its effort to root out systemic racial inequity.

Barr nodded to the Fed's participation in a hearing on appraisal bias held by the Federal Financial Institutions Examination Council's Appraisal Subcommittee last month, saying: "I look forward to working with my fellow regulators to help ensure that individuals are treated equally in the appraisal process regardless of race or the racial composition of neighborhoods."

The central bank sits on the council alongside other bank and housing regulatory agencies, including the Federal Deposit Insurance Corp., the Office of the Comptroller of the Currency, the Federal Housing Finance Agency and the Department of Housing and Urban Development.

Barr said the Fed will lean on enhanced data collection to identify discriminatory practices by banks and craft policies accordingly. He noted that under section 1071 of the Dodd-Frank Act, banks should be reporting more data on small business lending. Once this provision is fully implemented, he said, the Fed will have "tangible insights into the availability and pricing of credit" being extended to Black-owned businesses.

At the same, Barr also encouraged banks to be proactive in identifying discriminatory practices, suggesting that they use "mystery shoppers" tests to evaluate their employee practices. This involves two people who have identical profiles except for a different protected class, such as race, both applying for similar loans. The idea is to test whether individuals receive different credit offerings based solely on their race, gender or personal attributes.

Another focal point for the Fed and other regulators, Barr said, will be the use of artificial intelligence or computer algorithms for determining credit scores or otherwise evaluating loan applications.

Banks "should review the underlying models, such as their credit scoring and underwriting systems, as well as their marketing and loan servicing activities, just as they should for more traditional models," he said.

The CFPB also expressed skepticism about the ability of AI and algorithmic evaluation models to adhere to fair- lending standards.

Barr said ongoing efforts to update the Fed's supervision and regulation policies on bank mergers and the Community Reinvestment Act will both prioritize access to financial services for low- and moderate- income communities.

He added that it is also important for regulators to encourage innovations that help banks extend services to traditionally underserved areas, especially as it relates to community development financial institutions and minority depository institutions, which he said provide services traditional banks cannot.

"One thing we do is make sure that our examiners understand the CDFI space and the MDI space and the role that CDFIs and MDIs play, and the particular kinds of circumstances that MDIs and CDFIs face such as being able to do small consumer loans and to do character lending and to lend to people without a credit score," Barr said during a question and answer session after his speech. "Our examiner's need to know and understand what the offsetting risk mitigation measures that CDFIs and MDIs are using, including knowing the family. It makes a difference."

Barr also said the Fed is doing its part to help facilitate better services for low-income and underserved customers, noting specifically its instant payments network, FedNow, which is due to roll out this summer. He said FedNow will enable faster services at lower costs to consumers.

"We can also make a difference by updating our rules on check clearance, so that consumers and small businesses still receiving checks have access to their funds in a timelier manner," Barr said. "And of course, we need strong consumer protections in place so that consumers don't have to worry about making payments in a safe way."

Banks Tighten Credit Standards, Loan Demand Wanes

By Jim Dobbs, AMERICAN BANKER – February 7, 2023

Loan demand is flagging in all major categories and, at the same time, bankers are raising the bar on who qualifies for credit, setting the stage for slower growth in 2023.

The Federal Reserve's latest quarterly senior loan officer opinion survey, released late Monday, found bankers reporting weaker demand and tighter standards across commercial-and-industrial, commercial real estate, mortgages and consumer loans. Banks tend to become more selective with lending when they worry about looming economic sluggishness and the related potential for more borrowers to miss loan payments.

Amid rapidly rising interest rates and stubbornly high inflation, bankers throughout the fourth-quarter earnings season warned they are preparing for at least a mild recession this year.

"Overall, the survey paints a sobering picture of the state of loan demand and standards," Piper Sandler analyst Scott Siefers said. "On the one hand, such dynamics are logical considering the softening economic picture. But on the other, they reinforce the notion of a weakening revenue backdrop and uncertain credit environment."

The Fed said it received responses from 69 domestic banks and 18 U.S. branches and agencies of foreign banks. Banks received the survey in December and responses were due by Jan. 6.

The slowdown in residential real estate lending arrived last year, when mortgage rates doubled. Now, consumer loans broadly — including credit cards, home equity and auto loans — are falling out of favor for the first time since 2020. Banks also have made it more challenging to qualify for such loans, according to the Fed survey.

On the CRE front, the survey found lighter demand and stricter standards for the third quarter in a row. Bankers have similarly reported growing more selective with C&I credits — and seeing waning demand — in recent surveys. These changes applied to both small and larger loans.

Alastair Borthwick, chief financial officer at Bank of America, said the Charlotte, North Carolina-based company expects to increase lending in 2023 at roughly half 2022's pace of 10%.

"It will be a quieter loan growth year," Borthwick said during the $3 trillion-asset bank's January earnings call.

Community bankers, too, say the operating environment is changing.

"I do think there is a sense of caution out there," Patrick Ryan, president and CEO of the $2.7 billion-asset First Bank in Hamilton, New Jersey, said in an interview. "Things are still moving along, but I'd say more slowly."

Following multiple rate hikes since last spring, borrowing costs are higher across all loan types. At the same time, business owners and consumers continue to grapple with high overall expenses. Inflation reached a 40-year high above 9% last June. It declined to 6.5% in December but remained three times higher than the Federal Reserve's preferred level of around 2%.

S&P Global Market Intelligence separately surveyed about 140 U.S. bank and credit union executives late in 2022, and two-thirds of them said they expect a recession and higher credit costs this year.

Terry Dolan, chief financial officer of U.S. Bancorp in Minneapolis, said more borrowers also are worried about inflation, high rates and forecasts for an economic downturn. The $675 billion-asset U.S. Bank anticipates a shallow recession this year, he said in an interview.

Loan growth of nearly 7% in the fourth quarter capped a strong overall year for the bank, Dolan said. The growth will continue, but it will likely "slow down some" throughout 2023, he said.

Analysts at D.A. Davidson said that in the past, when bankers grew cautious, challenging credit conditions tended to follow.

"This has proven to be a great leading indicator for turns in credit cycles," the Davidson analysts said in a report. "History has shown when banks go from easing underwriting standards to tightening, the bank group starts to enter the next phase of the credit cycle as net charge-offs begin to increase roughly one to three quarters later."

FULL TEXT OF 02/06/23 AMERICAN BANKER ARTICLE:

Could Gift Cards Help Earned-Wage-Access Users Stretch Their Funds?

By Kate Fitzgerald, AMERICAN BANKER – February 6, 2023

Earned wage access programs — which allow employees to access a portion of their paycheck ahead of schedule — are cheaper than payday loans, but often come with fees attached. One provider flips the script by offering users a bonus instead.

The EWA firm ZayZoon is seeing growth for a payout approach the firm introduced a year ago, where it also offers advance wages in the form of retailer gift cards in North America. Users opting for a gift card will receive a balance that's greater than the amount they put in; for example, CVS currently offers a 7% bonus on top of the advanced wages that are available immediately to users through ZayZoon's Boost mobile wallet with no fee.

By contrast, most EWA providers charge consumers $3 to $5 each time they ask for instant access to earned income ahead of payday, which can add up for users that tap these services frequently. Certain other services are free to the end user or covered by their employer.

ZayZoon's option of a gift card is meant to boost the appeal of using EWA instead of alternative credit options or buy now/pay later loans, said Tate Hackert, ZayZoon's co-founder and president.

"BNPL loans and faster payments help people on the edge make ends meet, but these options add complexity to hourly workers' financial lives. A gift card option for necessities could possibly add some stability for users," Hackert said.

ZayZoon, which is based in Canada, reaches end users through 150 U.S.-based payroll providers. The company developed the gift card payout option — which Hackert says is still novel within the EWA industry — by collaborating with New York City-based digital gift-card startup Prizeout, which was founded in 2019 as a payout option for online gaming.

Prizeout recently expanded into about 10 different industry verticals that have added digital gift cards as a payout option, with hundreds of participating merchants, according to Brendan Grove, the company's chief technology officer and co-founder.

Bonuses on Prizeout's platform range from single digits up to 20%, with an average bonus across all merchants of 11% and a high rate of consumer redemption, Grove said. Prizeout generates revenue from fees merchants pay to participate.

ZayZoon, which serves hourly employees at about 4,000 small- to midsize companies, including many franchisees, sees gift cards as a key way to demonstrate financial responsibility and the choices end users have for receiving their pay, Hackert said.

"Around 60% of our users are tapping ZayZoon for short-term necessities — medications, groceries," he said. Walmart, Target, JiffyLube and AutoZone are among gift card providers ZayZoon prominently promotes to EWA users.

ZayZoon users have the option to instantly receive advance wages to their bank account for $5, or instantly at no cost via direct deposit through a push-to-debit Visa debit card ZayZoon offers in conjunction with Pathward (formerly MetaBank). Users can also opt for a gift card to any of ZayZoon's participating merchants.

Most ZayZoon users continue to pay a fee to send advance wages to their core bank account, apparently as a way of managing complex finances, Hackert said.

"Many of our users live paycheck-to-paycheck and because they know — to the exact dollar — which bills are due on which day, they tend not to want to change the systems they've set up. But we hope adding a gift card could act as a bridge to payday for necessities without incurring a fee and even getting a bonus on top of the earnings," Hackert said.

The majority of ZayZoon's users tap their wages ahead of payday "multiple times a year," he said.

ZayZoon has seen overall usage of its platform expand four-fold over the last year, and observers expect to see the EWA industry continue to expand if the economy slides further into recession.

But if financial pressure intensifies, the most hard-pressed consumers may find cash to be more useful than gift cards, said Marco Salazar, director of payments at Javelin Strategy & Research.

"The merchant bonus for the end user is a positive for end users, but most of the research we see points to cash as the preferred payout in nearly every case, because it's ultimately the most flexible, which is what people need during harder economic times," Salazar said.

FULL TEXT OF 02/07/23 FORBES ARTICLE:

Should You Use a Personal Loan to Pay Off Student Loans?

By Jennifer Calonia, FORBES – February 7, 2023

Leaving college can feel bittersweet, especially when you start repaying the loans you borrowed for your education. And you may repay quite a lot—graduates who earned a bachelor's degree in 2021 amassed an average of $29,100 in student loan debt, according to the College Board.

Assuming your loans are on a standard 10-year repayment plan, that's an average monthly payment of $243, not including interest and fees. As borrowers search for unique ways to ease their monthly budgets, using personal loans to pay off or consolidate student loans might seem appealing.

However, many personal loan lenders don't let you use loan funds to pay off educational debt. And though you may find some lenders that do allow this, it may not be as beneficial as you hope. If you're curious about this student loan repayment strategy, here's what you need to know.

Can You Use a Personal Loan to Pay Off Student Loans?

Taking out a personal loan to pay off your student loan debt isn't entirely far-fetched, but pulling off this strategy isn't very straightforward. A big reason is because not many personal loan lenders allow it.

Many lenders include language in their loan agreements that prohibits borrowers from using a personal loan to pay for educational expenses and student debt, in addition to other purposes like business costs or illegal activities. For example, lenders like SoFi, OneMain Financial and Discover don't permit borrowers to use their personal loans for student loan repayment.

However, some personal loan lenders allow this practice for certain applicants. Online lender Upstart, for example, generally lets borrowers use its personal loans to pay off student loans if they don't reside in California, Connecticut, Illinois, Washington or Washington, D.C.

Is It Smart to Use a Personal Loan for Student Debt?

For a select number of borrowers, there might be a benefit to using personal loans to pay off student loans. But for many, the risks are likely greater than the possible advantages.

Here are a few specific scenarios when a personal loan might be useful to repay student debt:

You never graduated. If you took out student loans but ultimately didn't complete your degree, a personal loan might be a useful option if you hope to refinance your student debt. While most borrowers will find that conventional student refinance loans offer the best deal, many lenders require borrowers to have a degree to qualify. If you're otherwise ineligible for a traditional student loan refinance, using a personal loan instead could be a workable alternative.

You're facing bankruptcy. If you have serious financial problems and may file for bankruptcy in the future, using a personal loan to pay off student loans could be useful. Typically, student loan debt is very difficult—though not impossible—to discharge in bankruptcy. Transferring that debt into a personal loan may make it easier to discharge, should bankruptcy become necessary.

You can qualify for an ultra-low interest rate. Generally, personal loan rates are higher than those offered by conventional student loan refinance lenders. But depending on your creditworthiness and income, you may be able to lock in a lower personal loan rate. If you are lucky enough to do so, this strategy could make sense—but interest rates aren't the only factor to consider. More on that below.

Risks of Using a Personal Loan to Pay Off Student Debt

Although getting a personal loan in the above circumstances might be worthwhile, in many cases, using personal loans to pay off student debt could cost you more money or shoulder you with increased risk.

In addition to facing challenges finding a lender that allows this practice, personal loan rates typically have higher interest rates than alternatives like traditional student loan refinancing. Unless you're exceptionally well-qualified, you'll likely find lower interest rates on the student loan refinance market.

Personal loan repayment terms are also generally shorter—typically, two to seven years, compared to the 10 or more years you often have to repay student debt. A shorter repayment term translates into higher monthly payments, on top of possibly paying more interest.

Consolidating your student loan debt using a personal loan also makes you ineligible for student loan tax benefits, like the student loan interest deduction. Lastly, many student lenders offer more comprehensive repayment help than personal loan lenders do. For example, a student lender may allow you to temporarily pause your payments if you lose your job or return to school.

Refinancing Is Often a Better Option

Instead of taking out a personal loan, refinancing your existing education loans is generally a more attractive option. With a student loan refinance, you take out a new student loan to pay off your current federal and private student debt. Afterward, you'll repay the debt under a new, privately refinanced loan with a different interest rate and repayment term.

In addition to lower interest rates and longer repayment terms, making payments toward a refinanced student loan also keeps tax benefits accessible, since the interest you're paying is still going toward education-related debt.

The biggest downside to refinancing is when you do so with federal student loans. Federal loans provide exceptional borrower protections and special programs that you can't typically get from a private lender. For example, refinancing federal student loans means you won't qualify for income-driven repayment plans, more flexible deferment and forbearance programs or federal loan forgiveness.

Other Alternatives to Repay Student Loans

Before moving forward with a personal loan or refinance loan for student debt, it's smart to explore other ways to manage your repayment. Here are some alternative options to address your debt, depending on your goal.

Note that federal student loans are still under administrative forbearance and monthly payments are currently paused. This borrower protection is set to expire by June 30, 2023.

If You Want to Save on Interest

If you're still in school or your loan is in its grace period, making interest-only payments can help you save money on interest. Doing so ensures that unpaid interest can't capitalize (i.e. be added onto your principal balance).

Refinancing high-interest student loans with a private lender might also help you save money if you can qualify for a lower rate.

If You Want to Lower Your Payments

Although your student loan agreement states your required monthly payment, most lenders understand that life happens.

If your budget is tight and your federal student loan payments are too high, ask your servicer about your repayment options. Depending on your income and family size, you might be eligible for an income-driven repayment (IDR) plan. These plans stretch your term to 20 or 25 years, and keep your payment amount to 10% to 20% of your discretionary income. If your income is low enough, you might even qualify for a $0 monthly payment.

Private student loan borrowers don't have access to the same IDR plans. If you're struggling to make your monthly private loan payment, reach out to your lender to learn about your options. It might offer financial hardship forbearance if you're experiencing temporary unemployment or other extenuating circumstances.

If You Want to Get Out of Debt Fast

One way to pay off student loans faster is by putting extra discretionary funds toward your debt, if you can afford to. For example, making extra payments using your tax refund or annual work bonus can speed up your repayment.

Another repayment option that can help you get out of debt faster is if you qualify for federal student loan forgiveness. Programs like Public Service Loan Forgiveness cancel your remaining student loan balance after making 120 qualifying payments while working in the public sector.

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Carriere, Charles@DFPI

From: FDIC Subscriptions <subscriptions@subscriptions.fdic.gov>
Sent: Thursday, February 23, 2023 7:06 AM
To: Pahwa, Aman@DFPI
Subject: Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities

Financial Institution Letter | February 23, 2023

Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities

Summary:

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Statement of Applicability:

The contents of, and material referenced in, this FIL apply to all FDIC-supervised financial institutions.

Distribution:

FDIC-Supervised Institutions

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From:	FDIC Subscriptions <subscriptions@subscriptions.fdic.gov>
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To:	Perdomo-Salazar, Sandra@DFPI
Subject:	FDIC Subscriptions Daily Digest Bulletin

Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities

02/23/2023

Financial Institution Letter | February 23, 2023

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Carriere, Charles@DFPI

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Sent: Thursday, February 23, 2023 7:04 AM
To: Zheng, Tianxi@DFPI
Subject: Agencies Issue Joint Statement on Liquidity Risks Resulting from Crypto-Asset Market Vulnerabilities

Joint Agency Release | February 23, 2023

Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency

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Attachment: Joint Statement on Liquidity Risks to Banking Organizations Resulting From Crypto-Asset Market Vulnerabilities (PDF)

###

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FDIC: PR-10-2023

Carriere, Charles@DFPI

From:	FDIC Subscriptions <subscriptions@subscriptions.fdic.gov>
Sent:	Saturday, February 25, 2023 10:47 PM
To:	De La Riva, Michael@DFPI
Subject:	FDIC Subscriptions Weekly Digest Bulletin

New FDIC Board Matters Webpage

02/21/2023

FDIC Board Matters | February 21, 2023

New FDIC Board Matters Webpage

Dear Subscribers,

We are pleased to share with you our new Board Matters webpages on fdic.gov.

The new pages create a "one-stop shop" for actions taken by FDIC's Board of Directors. This comprehensive redesign prioritizes the user by consolidating information and materials related to FDIC Board of Directors meetings and notational votes in one place. From the new page, you will have access to videos of meetings, materials discussed, supporting press releases and Financial Institution Letters, statements by Board members, vote information, and more without having to navigate multiple areas of our website.

We hope these changes enhance your experience and make the site a more helpful resource.

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FDIC Subscriptions - Office of Inspector General Press Release Update

02/21/2023

February 21, 2023

FDIC Office of Inspector General Press Releases

The following press releases, issued by the U.S. Department of Justice, were recently posted to the Federal Deposit Insurance Corporation's (FDIC) Office of Inspector General (OIG) Web site: https://www.fdicoig.gov/. Such press releases reflect actions resulting from the OIG's partnerships with U.S. Attorneys' Offices throughout the country and other OIGs and law enforcement entities.

Two Individuals Sentenced for Multimillion-Dollar Cattle-Trading Ponzi Scheme

Prince George's County Man Pleads Guilty To A Federal Wire Fraud Conspiracy To Obtain Over $1 Million In Covid-19 Cares Act Loans And Unemployment Insurance Benefits

Thank you for your interest in the work of the FDIC OIG. If you have questions or need additional information, please contact the OIG.

National Rates and Rate Caps

02/21/2023

National Rates and Rate Caps | February 21, 2023

National Rates and Rate Caps

The FDIC's national rates and rate caps have been updated and are now available.

View the Rates

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The FDIC does not send unsolicited e-mail. If this publication has reached you in error, or if you no longer wish to receive this service, please unsubscribe.

Stay Connected

UPDATE: National Rates and Rate Caps

02/21/2023

Banker Resource Center: National Rates and Rate Caps | February 21, 2023

(Updated to include February 2023 changes)

Thank you for opting to receive emails alerting you when the FDIC's National Rates and Rate Caps webpage is updated.

The National Rates and Rate Caps webpage includes information regarding the FDIC's methodology for calculating the national rate, national rate cap, and the local market rate cap for banks that are less than well capitalized under Section 337.7 of the FDIC's Rule and Regulations that became

effective April 1, 2021. This includes the rate caps for various deposit products applicable to less than well capitalized institutions, which are posted on the third Monday of each month.

February 2023 Update

- **Monthly Rate Cap Information:** Footnote 3 was updated to identify the applicable "Treasury Yield" to use when the U.S. Department of Treasury does not publish a rate for a particular on-tenor maturity. Footnote 4 was added to specifically address the 48-month CD "National Rate Cap" determination due to the lack of a published 48-month Treasury rate.

View the Webpage

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Proposed Revisions to the Consolidated Reports of Condition and Income (Call Reports) and the FFIEC 002 Report

02/22/2023

Financial Institution Letter | February 22, 2023

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Summary:

On February 21, 2023, the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency (collectively, the agencies), under the auspices of the Federal Financial Institutions Examination Council (FFIEC), published proposed regulatory reporting changes in the *Federal Register* for public comment. These proposed changes apply to all three versions of the Call Report (FFIEC 031, FFIEC 041, and FFIEC

051) and to the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), as applicable, and are proposed to take effect as of the June 30, 2023, report date.

Distribution:

FDIC-Supervised Banks and Savings Institutions
National Institutions
State Member Institutions
Savings Associations

Read the FIL

Agencies Issue Joint Statement on Liquidity Risks Resulting from Crypto-Asset Market Vulnerabilities

02/23/2023

Joint Agency Release | February 23, 2023

Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency

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Attachment: Joint Statement on Liquidity Risks to Banking Organizations Resulting From Crypto-Asset Market Vulnerabilities (PDF)

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MEDIA CONTACTS:

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OCC	Stephanie Collins	(202) 649-6870

FDIC: PR-10-2023

Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities

02/23/2023

Financial Institution Letter | February 23, 2023

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Statement of Applicability:

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Distribution:

FDIC-Supervised Institutions

Read the FIL

FDIC Subscriptions - Office of Inspector General Press Release Update

02/23/2023

February 23, 2023

FDIC Office of Inspector General Press Release

The following press release, issued by the U.S. Department of Justice, was recently posted to the Federal Deposit Insurance Corporation's (FDIC) Office of Inspector General (OIG) Web site: https://www.fdicoig.gov/. Such press releases reflect actions resulting from the OIG's partnerships with U.S. Attorneys' Offices throughout the country and other OIGs and law enforcement entities.

Former Beulah Bank President Sentenced to Two Counts of Bank Fraud

Thank you for your interest in the work of the FDIC OIG. If you have questions or need additional information, please contact the OIG.

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FDIC Money Smart News - February 2023 Edition

02/23/2023

Money Smart News | February 23, 2023

Money Smart News - February 2023 Edition

The latest edition of the Money Smart News is now available.

In this edition, you will find:

- February Monthly Message from the FDIC
- Upcoming Money Smart Town Hall – Black History Month
- FDIC & CFPB Joint Event for National Consumer Protection Week
- Latest FDIC Consumer News Edition

Read the News

Stay Connected

FDIC Makes Public January Enforcement Actions; No Administrative Hearing Scheduled for March 2023

02/24/2023

Press Release | February 24, 2023

FDIC Makes Public January Enforcement Actions; No Administrative Hearings Scheduled for March 2023

WASHINGTON - The Federal Deposit Insurance Corporation (FDIC) today released a list of orders of administrative enforcement actions taken against banks and individuals in January 2023. There are no administrative hearings scheduled for March 2023.

The FDIC issued 11 Orders in January 2023. The administrative enforcement actions in those Orders consisted of four combined orders of prohibition and orders to pay civil money penalties, one 8(b) consent order, one order to pay civil money penalty, three orders of prohibition, one order terminating a Section 19 order, and one order terminating consent order.

To view orders, adjudicated decisions and notices and the administrative hearing details online, please visit the FDIC's Web page by clicking the link below.

January 2023 Enforcement Decisions and Orders

###

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PR-11-2023

Agencies Issue 2022 Shared National Credit Program Review

02/24/2023

Press Release | February 24, 2023

Board of Governors of the Federal Reserve System
Federal Deposit Insurance Corporation
Office of the Comptroller of the Currency

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The federal bank regulatory agencies today reported in the 2022 Shared National Credit (SNC) report that credit quality associated with large syndicated bank loans improved in 2022, but noted the results do not fully reflect increasing interest rates and softening economic conditions that began to impact borrowers in the second half of 2022.

Overall, the report finds that credit risks for syndicated loans—large loans originated by multiple banks—were moderate at the end of the review period. While risks to borrowers impacted by COVID-

19 have declined, they remain high for leveraged loans, as well as the entertainment, recreation, and transportation services industries.

The 2022 review, which evaluates the quality of large, syndicated loans, was conducted by the Federal Reserve Board, the Federal Deposit Insurance Corporation, and the Office of the Comptroller of the Currency, and reflects the examination of SNC loans originated on or before June 30, 2022. Consistent with the approach taken in 2021, it focused on borrowers in five industries that were affected significantly by the pandemic: entertainment and recreation; oil and gas; commercial real estate; retail; and transportation services.

The 2022 SNC portfolio included 6,214 borrowers, totaling $5.9 trillion in commitments, an increase of 13.9 percent from a year ago. The percentage of loans that deserve management's close attention (loans rated non-pass, including special mention and classified SNC commitments) decreased from 10.6 percent of total commitments to 7.0 percent year over year. Nearly half of total SNC commitments are leveraged loans, and commitments to borrowers in industries affected by COVID-19 represent about one-fifth of total SNC commitments. For leveraged borrowers that also operate in COVID-19 affected industries, non-pass loans decreased to 18.9 percent, but remain above the 13.5 percent observed in 2019. While U.S. banks hold nearly 45 percent of all SNC commitments, they hold only 21 percent of non-pass loans.

Attachment: 2022 SNC Program Review Report

###

MEDIA CONTACT:

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Federal Reserve	Darren Gersh	(202) 452-2955
OCC	Stephanie Collins	(202) 649-6870

PR-12-2023

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Agencies Issue Joint Statement on Liquidity Risks Resulting from Crypto-Asset Market Vulnerabilities

02/23/2023

FDIC Federal Deposit Insurance Corporation

Joint Agency Release | February 23, 2023

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FDIC: **PR-10-2023**

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FDIC FEDERAL DEPOSIT INSURANCE CORPORATION

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PR-11-2023

Agencies Issue 2022 Shared National Credit Program Review

02/24/2023

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Press Release | February 24, 2023

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PR-12-2023

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Subject: FDIC Subscriptions Weekly Digest Bulletin

National Rates and Rate Caps

02/21/2023

National Rates and Rate Caps | February 21, 2023

National Rates and Rate Caps

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02/21/2023

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02/22/2023

Financial Institution Letter | February 22, 2023

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Agencies Issue Joint Statement on Liquidity Risks Resulting from Crypto-Asset Market Vulnerabilities

02/23/2023

Joint Agency Release | February 23, 2023

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PR-11-2023

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Attachment: 2022 SNC Program Review Report

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MEDIA CONTACT:

FDIC	Brian Sullivan	(202) 412-1436
Federal Reserve	Darren Gersh	(202) 452-2955
OCC	Stephanie Collins	(202) 649-6870

PR-12-2023

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02/21/2023

FDIC Board Matters | February 21, 2023

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National Rates and Rate Caps

02/21/2023

National Rates and Rate Caps | February 21, 2023

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02/21/2023

Banker Resource Center: National Rates and Rate Caps | February 21, 2023

(Updated to include February 2023 changes)

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02/22/2023

Financial Institution Letter | February 22, 2023

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Agencies Issue Joint Statement on Liquidity Risks Resulting from Crypto-Asset Market Vulnerabilities

02/23/2023

Joint Agency Release | February 23, 2023

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Attachment: Joint Statement on Liquidity Risks to Banking Organizations Resulting From Crypto-Asset Market Vulnerabilities (PDF)

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MEDIA CONTACTS:

Federal Reserve	Chantel Gerardo	(202) 452-2955
FDIC	Carroll Kim	(202) 898-7389
OCC	Stephanie Collins	(202) 649-6870

FDIC: PR-10-2023

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LaJuan Williams-Young
202-898-3876
lwilliams-young@FDIC.gov

PR-11-2023

Agencies Issue 2022 Shared National Credit Program Review

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FDIC	Carroll Kim	(202) 898-7389
OCC	Stephanie Collins	(202) 649-6870

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Agencies Issue Joint Statement on Liquidity Risks Resulting from Crypto-Asset Market Vulnerabilities

02/23/2023

Joint Agency Release | February 23, 2023

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Joint Agency Release | February 23, 2023

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Federal Deposit Insurance Corporation
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Agencies Issue Joint Statement on Liquidity Risks Resulting from Crypto-Asset Market Vulnerabilities

Federal bank regulatory agencies today issued a joint statement highlighting liquidity risks to banking organizations associated with certain sources of funding from crypto-asset-related entities and some effective practices to manage those risks.

Recent events in the crypto-asset sector have underscored the potential heightened liquidity risks presented by certain sources of funding from crypto-asset-related entities. The joint statement highlights key liquidity risks and some effective practices to monitor and appropriately manage those risks. The statement reminds banking organizations to apply existing risk management principles; it does not create new risk management principles.

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Attachment: Joint Statement on Liquidity Risks to Banking Organizations Resulting From Crypto-Asset Market Vulnerabilities (PDF)

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MEDIA CONTACTS:

Federal Reserve	Chantel Gerardo	(202) 452-2955
FDIC	Carroll Kim	(202) 898-7389
OCC	Stephanie Collins	(202) 649-6870

FDIC: PR-10-2023

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Joint Agency Release | February 23, 2023

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National Rates and Rate Caps

02/21/2023

National Rates and Rate Caps | February 21, 2023

National Rates and Rate Caps

The FDIC's national rates and rate caps have been updated and are now available.

View the Rates

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UPDATE: National Rates and Rate Caps

02/21/2023

Banker Resource Center: National Rates and Rate Caps | February 21, 2023

(Updated to include February 2023 changes)

Thank you for opting to receive emails alerting you when the FDIC's National Rates and Rate Caps webpage is updated.

The National Rates and Rate Caps webpage includes information regarding the FDIC's methodology for calculating the national rate, national rate cap, and the local market rate cap for banks that are less than well capitalized under Section 337.7 of the FDIC's Rule and Regulations that became effective April 1, 2021. This includes the rate caps for various deposit products applicable to less than well capitalized institutions, which are posted on the third Monday of each month.

February 2023 Update

- **Monthly Rate Cap Information:** Footnote 3 was updated to identify the applicable "Treasury Yield" to use when the U.S. Department of Treasury does not publish a rate for a particular on-tenor maturity. Footnote 4 was added to specifically address the 48-month CD "National Rate Cap" determination due to the lack of a published 48-month Treasury rate.

View the Webpage

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Proposed Revisions to the Consolidated Reports of Condition and Income (Call Reports) and the FFIEC 002 Report

02/22/2023

Financial Institution Letter | February 22, 2023

Proposed Revisions to the Consolidated Reports of Condition and Income (Call Reports) and the FFIEC 002 Report

Summary:

On February 21, 2023, the Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency (collectively, the agencies), under the auspices of the Federal Financial Institutions Examination Council (FFIEC), published proposed regulatory reporting changes in the *Federal Register* for public comment. These proposed changes apply to all three versions of the Call Report (FFIEC 031, FFIEC 041, and FFIEC 051) and to the Report of Assets and Liabilities of U.S. Branches and Agencies of Foreign Banks (FFIEC 002), as applicable, and are proposed to take effect as of the June 30, 2023, report date.

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Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities

02/23/2023

Financial Institution Letter | February 23, 2023

Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities

Summary:

The Federal Deposit Insurance Corporation, Board of Governors of the Federal Reserve System, and the Office of the Comptroller of the Currency (collectively, the agencies) are issuing this statement on the liquidity risks to banking organizations presented by certain sources of funding from crypto-asset related entities.

Statement of Applicability:

The contents of, and material referenced in, this FIL apply to all FDIC-supervised financial institutions.

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Proposed Revisions to the Consolidated Reports of Condition and Income (Call Reports) and the FFIEC 002 Report

02/22/2023

Financial Institution Letter | February 22, 2023

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02/23/2023

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