



# CaliforniaBanker

ISSUE 3 2023

A PUBLICATION OF CALIFORNIA BANKERS ASSOCIATION



WHAT'S INSIDE:

8

A Conversation  
with Stan Ivie

10

The Aftermath of Silicon  
Valley Bank's Failure

16

ASK THE COMPLIANCE GURU

# TAP INTO THIS \$72 BILLION DOLLAR OPPORTUNITY



## GAIN EARNING ASSETS WITH CANNABIS LENDING

**The U.S. cannabis market is poised for substantial growth, with New Frontier Data estimating it to reach \$72 billion annually by 2030. This growth is primarily driven by the legalization of adult-use cannabis programs in 21 states, including California – the largest cannabis market in the country – where total market sales are expected to reach \$9.3 billion by 2030.**

Lending is part of a holistic approach to providing banking services to the cannabis industry that helps financial institutions attract the best operators, build a strong book of deposits, and unlock higher yield earning assets. It is also an opportunity for banks to go beyond serving retailers and meet the demand for banking and lending by the broader wholesale market as well.

The **Shield Compliance Cannabis Lending Guide** helps bankers navigate the compliance, reputational, and credit risks associated with cannabis operators and cannabis-related collateral, and unlock the financial rewards of this industry.

### **Shield Compliance: A Leader in Cannabis Banking.**

Since its inception, Shield has partnered with more than 60 financial institutions and monitored 6.3 million transactions including nearly \$30 billion in deposit volume. Year to date, Shield's financial institution customers have earned \$8.2 million in non-interest income from service charges, and as of March 31, 2023, have \$865 million in deposit balances and \$95.3 million in loans outstanding from over 4,800 CRBs representing more than 12,000 active cannabis licenses.

**Let Shield Compliance help your financial institution unlock the benefits of serving the legal cannabis industry.**

Shield Compliance transforms how financial institutions manage risk, comply with regulations, and address the operational demands of the legal cannabis industry.

#### **shield assure**

Compliance management for financial institution daily operations, including case management and automated reporting.

#### **shield engage**

Informed account application process for underwriting and onboarding cannabis business accounts.

#### **shield transact**

Compliant mobile payment and payroll solutions to reduce cash transaction dependency.

Earn the benefits of a compliant cannabis banking program with Shield Compliance.

✉ [info@shieldbanking.com](mailto:info@shieldbanking.com)

📞 (425) 276-8235

GET THE GUIDE



**DOWNLOAD THE CANNABIS LENDING GUIDE:  
[ShieldBanking.com/cannabis-lending-guide](https://ShieldBanking.com/cannabis-lending-guide)**





# THE BHG LOAN HUB

The BHG Loan Hub is a secure, state-of-the-art platform that allows you to diversify your bank's portfolio with top-performing loans.

## Bank benefits:

Our 1,525+ Bank Network members have earned more than \$1B in combined interest income from exclusive access since 2001.

- Access top-tier assets
- Turn excess liquidity into revenue
- Receive direct ACH payments from borrowers
- Credit enhancements available

**Become a member and see how easy it is to expand beyond your local borrower base.**

## Jim Crawford

EVP, Institutional Sales / BHG Board Member

315.415.9511

[jim@bhg-inc.com](mailto:jim@bhg-inc.com)

[BHGLoanHub.com/WBA](http://BHGLoanHub.com/WBA)





## FEATURES

- 8 A Conversation with Stan Ivie
- 10 The Aftermath of Silicon Valley Bank's Failure
- 12 CFPB's Small Business Lending Data Collection Rule Increases Operational Burdens and Regulatory Risk for Lending to Small Businesses
- 16 Ask the Compliance Guru
- 18 Financial Literacy
- 20 New Board Members
- 22 CBA Annual Conference

## DEPARTMENTS

- 6 Association Update
- 26 Advertising Index



View this issue and past issues of CaliforniaBanker online any time at [www.CalBankers.com](http://www.CalBankers.com)

©istock.com: marchmeena29; FatCamera; Sundry Photography

### CaliforniaBanker is the official publication of California Bankers Association.

California Bankers Association, 1303 J Street, Suite 600, Sacramento, CA 95814, P: 916-438-4400/F: 916-441-5756, Email online at [www.CalBankers.com](http://www.CalBankers.com).

©2023 California Bankers Association | NFR Communications, Inc.. All rights reserved. CaliforniaBanker is published four times each year by NFR Communications, Inc. for California Bankers Association and is the official publication for this association. The information contained in this publication is intended to provide general information for review, consideration and member education. The contents do not constitute legal advice and should not be relied on as such. If you need legal advice or assistance, it is strongly recommended that you contact an attorney as to your circumstances. The statements and opinions expressed in this publication are those of the individual authors and do not necessarily represent the views of California Bankers Association, its board of directors, or the publisher. Likewise, the appearance of advertisements within this publication does not constitute an endorsement or recommendation of any product or service advertised. CaliforniaBanker is a collective work, and as such, some articles are submitted by authors who are independent of California Bankers Association. While California Bankers Association encourages a first-print policy, in cases where this is not possible, every effort has been made to comply with any known reprint guidelines or restrictions. Content may not be reproduced or reprinted without prior written permission. For further information, please contact the publisher at 855.747.4003.



**Save  
The  
Date**

# Annual Conference

# & Directors Forum

April 19-22, 2024



Fairmont Orchid, Hawaii  
Island of Hawaii  Hawaii

## Association Update



➤ We hope you enjoy this issue of the **CaliforniaBanker**, and look forward to seeing you at an upcoming event.

Welcome to the latest edition of the *CaliforniaBanker* magazine. In this issue, we are excited to share a Q&A with our new Board Chairman, Stan Ivie, Executive Vice President, Chief Risk Officer of Pacific Western Bank and PacWest Bancorp. In addition, we highlight our newest board members and share several articles about pending legislation and an in-depth piece on the CFPB's Small Business Lending Data Collection Rule.

### Advocacy

The advocacy team continues to fight the good fight on behalf of the industry. The California Governor and legislative leaders recently reached a \$310 billion budget deal for the 2023-2024 fiscal year. It is the second largest budget in California history, despite a \$32 billion deficit for the 2022-2023 fiscal year.

CBA's advocates continue to work with legislators and coalition members on measures impacting the industry, ranging from climate change and protecting seniors from financial abuse. On July 14th, the legislators will adjournment for the Summer Recess. The Legislature will reconvene on August 14th and will begin the mad dash to get measures passed or defeated by September 14th. The Governor will have until October 14th to sign or veto measures passed by the Legislature.

### Annual Conference

In May, we hosted the 2023 Annual Conference, hosted in Maui, Hawaii at the Grand Wailea. Nearly

400 attendees joined us for the event, which included educational programs presented by subject matter experts, peer sessions, and opportunities to network and socialize with attendees. Check out the photo gallery in this issue of the magazine and mark your calendar for next year's Annual Conference on April 19-22, 2024 at the Fairmont Orchid on the island of Hawaii.

### Events

We have several educational events scheduled this year, including our 2023 Bankers Summit: An educational conference for compliance, finance, lending, and risk management professionals. This event, held in Las Vegas, Nevada at Caesar's Palace, will feature four dedicated education tracks. We are pleased to share that the Colorado, Montana & Wyoming Bankers Associations will be partnering with CBA on this event. To learn more about our upcoming events, please visit our website at <https://www.calbankers.com/upcoming-programs>.

### Reminder

There is still time to participate in the annual CBA Compensation & Benefits Benchmark Survey conducted by Pearl Meyer. To learn more about the survey or to participate, please reach out to Rhonda Snyder at [rhonda.snyder@pearlmeyer.com](mailto:rhonda.snyder@pearlmeyer.com).

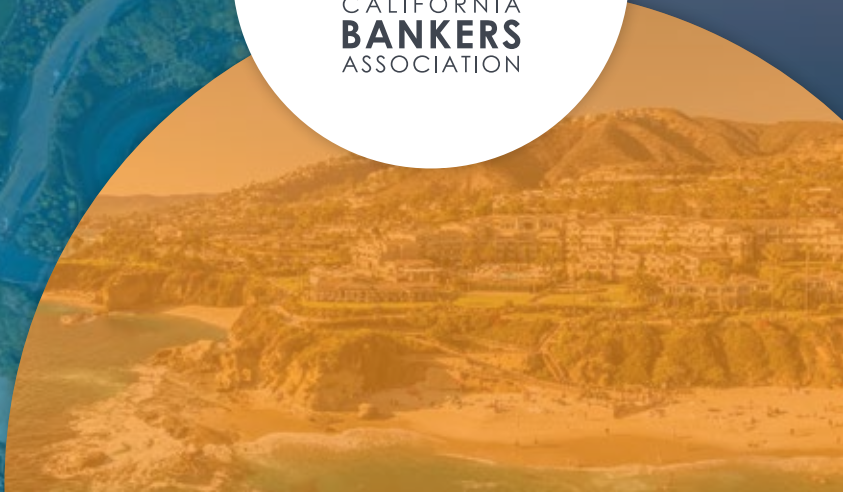
Thank you for your membership and support. We hope you enjoy this issue of the *CaliforniaBanker*, and look forward to seeing you at an upcoming event. ➤➤



SAVE THE DATE

**20** Bank  
**24** Presidents  
Seminar

January 10-12, 2024  
Montage Laguna Beach  
Southern California





## A Conversation with Stan Ivie

**Q:** As Chairman of the California Bankers Association's Board of Directors, what are your goals and priorities for the Association?

First I am honored and humbled to be elected to serve in this capacity. No. 1 is to continue the work started by George Leis and James Beckwith to engage and use the full Board as a resource to define and deliver the value proposition that the Association offers to its members. Advocacy is at the top of that list along with communication, networking and education. The Board's feedback and guidance in this effort is critical for the Association to be able to serve the needs of all of its members.

Also critical to this initiative is putting in place a chief executive officer to drive the Association forward. The executive committee has been conducting a rigorous candidate search and evaluation process, and I am confident that the Board will be acting on that soon. Special thanks to Kevin Gould and Yvette Ernst for co-leading the Association during this transitional period. Ensuring that the Association's financial condition is stable and sustainable is critical as well. We will be exploring options to enhance membership and to strengthen our relationships with associate members, endorsed partners and others in the financial ecosystem.

National and State Bankers Association relationships are also a top priority and we will seek opportunities to partner and collaborate with our banker association colleagues.

**What CBA member benefits does your bank value most and why?**

Advocacy. Many legislative initiatives in the financial industry get their start in California and through the CBA we have the opportunity to be an early influencer on the course of potential legislation impacting the industry. The government relations team at CBA, through its outreach and relationships with legislators on both sides of the aisle, has materially lessened the impact of various legislation on our member banks, and even eliminated them in many cases. A "stroke of the pen" risk via legislation is real and we are fortunate to have input in the process as early as we do, and we should take full advantage of that opportunity.

The CBA is a resource for our bank and its communication channels are helpful in keeping up with the important issues of the day. Our bank participates in the HR Forum, which has been very helpful as we all have dealt with issues associated with Covid-19. Participating in such forums and hearing how other banks are addressing com-



mon problems is like having access to a free consultant. The training programs, webinars and conferences are also useful in developing our employees. For the Women in Banking Conference, we used it as a springboard for internal discussions on how to further our goals to develop female leaders. We also participate in the Enterprise Risk Management (ERM) education program and present at webinars and conferences on key risk management topics.

For me personally, it is the opportunity to interact and exchange thoughts and ideas with other bankers in both formal and informal settings. California is a leader in banking and has some of the best CEOs in the nation running its financial institutions. Developing relationships with and learning from colleagues from all types of banks is something only CBA provides.

**Tell us about your background and how your previous experience as a regulator informs your role today?**

Serving as the FDIC regional director (supervision) for the San Francisco Region gave me the opportunity to get to know many of the banks and bankers in California and surrounding states, and to hear firsthand what issues are of most importance to them. And not just bankers, but other regulators, investment bankers, attorneys and accountants serving the industry. This network continues to share their views with me and keeps me informed on current issues of importance.

While I also served as the regional director (supervision) for the FDIC's Dallas Region, I was not an examiner. The majority of my FDIC career was in the resolutions division, including head of the resolutions office in Dallas which handles failing banks nationwide, and 12 years in Washington, D.C., including a fellowship to the House Banking Committee. Those experiences exposed me to state, regional and national perspectives, which have all influenced my views today.

Finally, I was raised in a small town in Oregon where my dad

owned the local hardware store and my mom managed one of the two bank branches in town, so I am the beneficiary of community banking.

**What are the most challenging issues facing the banking industry? And conversely, what are the greatest opportunities?**

I think presently banks are facing a decline in public confidence. Social media and the speed of information, and misinformation, has never been greater and banks must protect their balance sheets from event risk, even when the risk seems remote. Adding to the current challenge is the competition for deposits from other participants in our financial system. But it is banks where deposits are most safe and equally important where loans are most available.

The current confidence crisis presents an opportunity for banks to demonstrate their resiliency and their importance to the overall financial health of the country, its businesses and all of us as consumers. Banks also have an opportunity to further partner with financial technology and other providers to more efficiently deliver services to customers. Our economy is dependent on banks providing capital to fund growth and innovation, and I know banks are up to the challenge. >>



**Mackinac  
Credit +  
Compliance**

**Kelly W. George**  
CEO + Founder  
(906) 286-1445  
kgeorge@maccreditcomp.com

**Tammy McDowell**  
President + Founder  
(906) 286-0808  
tmcdowell@maccreditcomp.com

**Client-driven solutions for community banks.**

We are seasoned community bankers, helping banks more efficiently manage risk and internal work processes for successful long-term strategic growth. We tailor our solutions to your unique business needs with a hands-on approach so you can focus more internal resources on revenue generation and enhancing shareholder value in an increasingly complex and competitive industry.

- Credit administration + analyst support
- Proactive compliance solutions
- Turnkey operational + management support

**maccreditcomp.com**



# The Aftermath of Silicon Valley Bank's Failure

By Kevin Gould, EVP, Director of Government Relations, California Bankers Association

**D**espite recent bank failures, the U.S. banking system remains safe, resilient and on a solid foundation. The banking industry is well-capitalized and has strong liquidity. As always, banks stand ready to meet the needs of their customers and communities and we continue to play a critical role in supporting and fueling the economy.

Following the failure of Silicon Valley Bank (SVB) and Signature Bank, several investigative reports have now been issued by banking regulators. On April 28, the Federal Reserve issued a report with respect to its oversight of SVB, the FDIC published its report with regard to the supervision of Signature Bank, and the Government Accountability Office released a report covering both failures. The California Department of Financial Protection and Innovation (DFPI) produced its report on SVB on May 8.

Key takeaways from the report issued by the Fed on SVB include findings that: SVB's board of directors and management failed to manage their risks; Fed supervisors did not fully appreciate the extent of the vulnerabilities as SVB grew in size and complexity; supervisors did identify vulnerabilities but did not take sufficient steps to ensure SVB fixed those problems quickly; and, the Fed's tailor-

ing approach in response to regulatory relief impeded effective supervision.

Similarly, the DFPI's report found that: SVB was slow to remediate regulator-identified deficiencies; regulators did not take adequate steps to ensure the bank resolved problems as fast as possible; recent rising interest rates led to SVB's startup deposits decreasing and its investments losing value; SVB's unusually rapid growth was not sufficiently accounted for in risk assessments; SVB's high level of uninsured deposits contributed to the bank run; and, digital banking technology and social media accelerated the volume and speed of the run.

Distilling down the hundreds of pages from these reports, the findings affirm what many in the banking industry suspected, bank management and the board of directors failed to manage risk, regulators were aware of percolating issues and didn't respond or escalate the matter soon enough, and technology has increased the velocity for which money can move.

In many ways, the fundamentals of banking were missed. Interest rate risk, liquidity risk, and concentration risk are foundational. Shocking the balance sheet to under-

## ➤ The debate has begun on whether more or less regulation would have avoided SVB's failure or whether it will prevent future occurrences. ➤

stand what might happen in different interest rate environments is innate. Notwithstanding, the debate has begun on whether more or less regulation would have avoided SVB's failure or whether it will prevent future occurrences.

Several oversight hearings diving into these very questions have been conducted both before Congress and in California. Back in DC, back-to-back hearings were conducted on March 28 and 29 before the U.S. Senate Banking Committee and the House Financial Services Committee, respectively. The California Assembly Committee on Banking and Finance held a preliminary hearing on April 10 followed by a joint oversight hearing between that committee and the Senate Committee on Banking and Financial Institutions on May 10. And then, three hearings took place in one week, two by the Senate Banking Committee (May 16 and 18) and one in the House Financial Services Committee (May 17).

Meanwhile, the FDIC issued its proposed rule for the special assessment to address the \$15.8 billion impact on the Deposit Insurance Fund, a figure down from the \$22 billion originally estimated. In issuing the draft rule, the FDIC noted

that: in general, large banks with large amounts of uninsured deposits benefitted the most from the systemic risk determination; no banking organizations with total assets under \$5 billion will be subject to the special assessment; the special assessment will be collected at an annual rate of approximately 12.5 basis points over eight quarterly assessment periods; and, collection will begin with the first quarterly assessment period of 2024.

With the failure of SVB and concerns regarding FDIC insurance coverage limits, especially those related to a business' ability to meet payroll, the FDIC has published a comprehensive overview of potential options for deposit insurance reforms. Three options have been identified: maintaining the current deposit insurance framework, providing insurance up to a specified limit; extending unlimited deposit insurance coverage to all depositors; and, different deposit insurance limits across account types, where business payment accounts receive higher coverage than other accounts. While not an endorsement, the FDIC believes targeted coverage best meets the objectives of deposit insurance for financial stability and depositor protection. It's important to note that all options require Congressional approval.

Legislatively, we will likely see proposals that roll back regulatory relief achieved just a few years ago from the Dodd-Frank Act, relief designed to create a more tailored and sophisticated approach to bank supervision. Proposals will likely focus on executive compensation, claw-backs, the barring of future employment in the industry, and the minimum qualifications of individuals serving on certain bank boards and committees.

As we move forward, there will be efforts to divide the industry based on asset size, the value of the dual banking system will be questioned, and some will wonder about the capacity for state regulators to supervise institutions that reach a particular asset size. During these times, it's especially critical that we stand together, unified, to preserve the diversity of banks serving communities across the country. Community banks, mid-size banks, regional banks, and large banks are integral to the success of our customers, communities and the overall economy. Banks of every size and business model add unique value and are a source of strength for our economy. ➤➤



Kevin Gould is the Executive Vice President and Director of Government Relations for the California Bankers Association. He joined the CBA in 2004, bringing with him more than seven years of legislative experience. In his role, he oversees the management and operation of CBA's state and federal government relations department and serves as one of CBA's three registered lobbyists. Gould's advocacy responsibilities and issues focus mainly in the areas of bank operations, commercial lending, and wealth management issues. You can reach him at [kgould@calbankers.com](mailto:kgould@calbankers.com).



# CFPB's Small Business Lending Data Collection Rule Increases Operational Burdens and Regulatory Risk for Lending to Small Businesses

By Michael Flynn and Brett Voets, Buchalter APC

**O**n March 30, 2023, the Consumer Financial Protection Bureau (CFPB) issued the long-awaited final version of its rules on Small Business Lending under the Equal Credit Opportunity Act. The new rule imposes significant burdens and risks on lenders, and will likely result in significant amounts of loan-related data being made public, as discussed below. The lenders and loans/applications covered include:

- Any financial institution that made more than 100 covered loans in each of the previous two calendar years have data collection and reporting requirements in regard to covered small business loans.
- Covered small business loans are business or commercial loans to any company that earned \$5 million or less in its previous fiscal year.

Thus the rule has a broad application, covering a wide scope of lenders and loans. (The full text of the CFPB’s Small Business Lending Data Collection Rule can be found at [www.consumerfinance.gov](http://www.consumerfinance.gov))

The rule will implement the small business lending data collection requirements created by Section 1071 of the Dodd-Frank Act by amending Regulation B of the Equal Credit Opportunity Act (ECOA). The CFPB derives its rulemaking authority from both Section 1071 and the ECOA, and has indicated that the primary purposes of this rule are to facilitate the enforcement of fair lending laws created by the Dodd-Frank Act, and to create a database available to the public that can be used

## Regardless of its intended purposes, the rule creates significant and potentially costly issues for lenders.

to more effectively identify business and community development needs and serve women-owned, minority-owned, LGBTQ+-owned and small businesses.

### Likely Issues for Lenders

Regardless of its intended purposes, the rule creates significant and potentially costly issues for lenders, such as:

- The need to develop a complex operational process to gather, store and report data on loans to small businesses;
- Significant compliance and risk oversight;
- The need to inquire from applicants and borrowers about detailed ownership information;
- Heightened regulatory fair lending scrutiny in regards to lending to small businesses;
- Increased exposure to fair lending claims from private applicants and borrowers, and regulators.

### Compliance Deadline Dates

The deadline for compliance with this rule depends on the number of covered small business loans the lender made in each of 2022 and 2023:

- 2,500 hundred loans or more – comply by October 1, 2024.

- 500 to 2,499 business loans – comply by April 1, 2025.
- 100 to 499 small business loans – comply by January 1, 2026.

A financial institution that did not originate at least 100 covered credit transactions for small businesses in each of calendar years 2022 and 2023 but subsequently originates at least 100 such transactions in two consecutive calendar years must comply no earlier than January 1, 2026.

### Lenders and Loans Covered by the Rule

The lenders and lending activity covered by this rule are broad. The rule applies to covered financial institutions that originated at least 100 covered credit transactions for small businesses in each of the two preceding calendar years. Each phrase in that coverage definition must be considered:

- Covered Financial Institution: A “covered financial institution” is any financial institution that has originated at least 100 covered credit transactions for small businesses in each of the preceding two calendar years. A “financial institution” is any partnership,

company, corporation, association, trust, estate or other entity that engages in financial activity. This definition covers a wide variety of lenders, including depository institutions, online lenders, platform lenders, and commercial finance companies.

- **Small business:** Essentially, a small business is one with \$5 million or less in gross annual revenue during its preceding fiscal year. The definition actually refers to the definitions of “business concern” and “small business concern” in the Small Business Act (SBA), but CFPB diverges from these definitions by imposing the \$5 million revenue limit.
- **Covered credit transaction:** A credit transaction covered by the rule is an extension of credit primarily for business or commercial purposes. This would cover loans, lines of credit, and merchant cash advances, but would not include factoring transactions, leases, and credit secured by certain investment properties.
- **Single Family Residential Loans Not Covered - Home Mortgage Disclosure Act (HMDA) Overlap:** If a loan meets the definition of a “covered loans” under HMDA, those loans are not covered by this new rule, and do not need to be reported as small business lending loans. This is because the new small business lending data collection rule specifically excludes all loans defined as “covered loans” in HMDA Regulation C.

## Data Collected and Reported

The data collection and reporting requirements are detailed and

stringent. Lenders who already do residential lending data collection and reporting under the rules implementing the HMDA will be familiar with the many types of data and the methods for collecting and reporting the data. They may find it somewhat easier to implement these small business lending requirements. However, for other lenders not already doing HMDA reporting, there are likely to be steep learning curves and difficult operational implantation processes.

If a financial institution does fall within the purview of the rule, it is required to collect data on all loan applications it receives and loans it provides. The scope of the data required is wide ranging. The data falls into two basic categories:

- Information about the application and the loan, such as
  - application date
  - application method
  - credit type
  - amount applied for and borrowed
  - action taken in regards to the application
- Information about the applicant/borrower and the owners of the applicant/borrower, such as
  - applicant’s gross annual revenue
  - number of workers for the applicant
  - whether the applicant is a women-owned, minority-owned, and/or LGBTQ+-owned business
  - the ethnicity, race and sex of any individual who owns 25% or more of the applicant

Gathering this scope of information will require the buildout of operational processes and significant training for personnel.

Data for the previous calendar year must be collected and reported on June

1st of the following year, and can be reported individually or through the parent of a financial institution.

## Publication of Data

The CFPB will publish the data it collects on its website, with such modifications and deletions as it determines are appropriate. In conjunction with this publication, each financial institution covered by the Rule will be required to publish a statement on its website informing its visitors that the data it has reported is available on the CFPB’s website.

Depending on the scope of the modifications and deletions to lenders’ data the CFPB chooses to make, it appears that individuals, as well as attorneys and interest groups, will have access to broad arrays of lenders’ data, including data related to fair lending issues. This will increase litigation risks for lenders, and along with regulatory reviews of the data, will require lender reviews of their own data as described below.

## Enforcement, “Bona Fide Error” Exception and Safe Harbors

It is expected that the CFPB will aggressively monitor compliance with this rule, and any violation is subject to administrative sanctions and/or civil liability, as provided by Sections 704 and 706 of the ECOA.

In addition to administrative sanctions and civil liability for non-compliance, the rule will expose lenders to an increased likelihood of regulatory fair lending investigations and enforcement actions. The CFPB has stated that a key purpose of the rule is to examine small business lending from a fair lending perspective.

**Bona Fide Error:** A financial institution can escape sanction and liability if its non-compliance was a “bona fide error.” In other words, the insti-

tution must show that the error was unintentional and occurred despite maintenance of procedures reasonably adapted to avoid such errors. A financial institution is presumed to maintain procedures reasonably adapted to avoid error, if based on a random sample of applicants, the number of errors found in a financial institution's data submission is no greater than 6.4% for institutions processing 100 to 130 applications annually to 2.5% for the institutions processing more than 100,000 applications annually. An error is not bona fide if, based on the circumstances, it is reasonable to believe that the institution intentionally committed the error or failed to maintain adequate procedures.

**Limited Safe Harbors:** The rule also creates certain limited safe harbors where errors associated with collecting and reporting data on an applicant's census tract, NAICS code, small business status, and application would not constitute violations.

### Consequences of the Rule – Economic Costs and Reputational Risks

Most, if not all, financial institutions will have to build out overlays to their loan application system that allow for the collection of data they are required to report to the CFPB. They will also have to engage in ongoing training on, and compliance and risk oversight of these processes. They will have to develop methods for meaningful review of their data in order to identify possible issues and take remedial actions.

The CFPB estimates that, depending on the covered financial institution, costs associated with preparing and implementing this reporting system can rise to as much as \$100,000, and require hundreds of hours spent by junior, mid-level and senior employees.

Further, the CFPB estimates that the overall market impact of these costs to financial institutions could be as great as \$160 million dollars. Following implementation the CFPB estimates that the ongoing cost of maintaining these systems and abiding by the rules could range from \$8,300 to \$243,000, depending on the institution. Even if one accepts the CFPB estimates, the costs of compliance with these rules will likely be significant for all institutions, and have the potential to affect how these institutions run their businesses.

As discussed above, in addition to the economic costs associated with these rules, financial institutions also face economic and reputational risks in relation to their lending practices. In making their credit decision process public information, financial institutions can be scrutinized for who they choose or choose not to lend to, running the risk of being labeled as a discriminatory lender. Even more, this data could be utilized by class action attorneys and advocacy groups to initiate investigations and litigation.

### Need to Begin Implementation

The CFPB has signaled that these rules will not become mandatory for 18 months following their release. Given the dangers associated with failing to comply with

these rules, and the difficulty and complexity of building out, testing and implementing similar data processes, it would be a best practice for all financial institutions covered by this rule to further study and begin implementing this rule as soon as possible. The CFPB has communicated that they will aggressively enforce these regulations, so failure to be prepared once collection and reporting become mandatory could result in serious consequences. >>

Michael Flynn is Of Counsel in Buchalter APC's Denver office, and is a member of the firm's Commercial Finance Practice Group and Mortgage Banking Industry Group. He is also Co-Chair of Buchalter's Financial Services Regulatory Group, and its Title Insurance & Escrow Industry Group.

Brett Voets is an Attorney in Buchalter APC's Los Angeles office and a member of the Commercial Finance practice group.

**Nationwide**  
REAL ESTATE TAX SERVICE, INC.

- ~ Property Tax Reporting
- ~ Flood Zone Determinations
- ~ Since 1987

**WE CAN DO IT!**

800-528-7803  
nationwidecompliance.com

# ASK THE COMPLIANCE GURU

**Q:** Can a single loan be reported on both the HMDA and CRA LAR in a given year?

**A:** It depends. Generally, loans cannot be double counted for HMDA and CRA purposes. However, multifamily affordable housing loans may be reported both under HMDA as home mortgage loans and as Community Development loans. Also, the refinance of a loan to a business where a residence is taken as collateral could be reported both under HMDA and as a Small Business or Small Farm loan.

References:

*“Except for multifamily affordable housing loans, which may be reported by retail institutions both under HMDA as home mortgage loans and as community development loans, in order to avoid double counting, retail institutions must report loans that meet the definition of “home mortgage loan,” “small business loan,” or “small farm loan” only in those respective categories even if they also meet the definition of “community development loan.”*”

[https://www.ffiec.gov/cra/pdf/2015\\_CRA\\_Guide.pdf](https://www.ffiec.gov/cra/pdf/2015_CRA_Guide.pdf)

*“If an institution is not a wholesale or limited-purpose institution, it cannot designate a loan as a community development loan if the loan has already been reported or collected by the institution or an affiliate as a small business, small farm, consumer, or home mortgage loan (except in the case of a multifamily dwelling loan, which may be considered a community develop-*

*ment loan as well as a home mortgage loan).”* [https://www.ffiec.gov/cra/pdf/2015\\_CRA\\_Guide.pdf](https://www.ffiec.gov/cra/pdf/2015_CRA_Guide.pdf)

*“A loan of \$1 million or less with a business purpose that is secured by a one-to-four family residence is considered a small business loan for CRA purposes only if the security interest in the residential property was taken as an abundance of caution and where the terms have not been made more favorable than they would have been in the absence of the lien. (See Call Report Glossary definition of “Loan Secured by Real Estate.”) If this same loan is refinanced and the new loan is also secured by a one-to-four family residence, but only through an abundance of caution, this loan is reported not only as a refinancing under HMDA, but also as a small business loan under CRA. (Note that small farm loans are similarly treated.)”*

<https://www.federalregister.gov/d/2016-16693/p-451c>

**Q:** If a customer calls and asks about our current deposit rates do we need to include a statement of “annual percentage yield” along with the rate?

**A:** In any oral response to a consumer inquiry on deposit rates, Regulation DD requires that you state the annual percentage yield. The interest rate may be stated in addition to the annual percentage yield as set out here:

“(e) Oral response to inquiries. In an oral response to a consumer’s inquiry about interest rates payable on its accounts, the depository institution shall

state the annual percentage yield. The interest rate may be stated in addition to the annual percentage yield. No other rate may be stated.”

<https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1030/3/#e>

**Q:** If we obtain new information on a Regulation E dispute indicating that the transaction was authorized after the bank concluded its investigation and issued final credit, can we reopen the investigation and reverse the credit?

**A:** Regulation E, unfortunately, does not contemplate reversing a final credit, even if new information comes to light after the disposition of the investigation. <https://www.consumerfinance.gov/policy-compliance/rulemaking/regulations/1005/11/#11-c-Interp-4>

If the bank has already communicated to the consumer that the “final credit has been made” (or similar), then attempting to reverse a final credit could invite increased regulatory scrutiny during an exam and/or audit since Reg E simply does not authorize this action.

Some make the interpretation that the consumer shouldn’t get a windfall and would reverse the final credit provided by the bank. However, there’s nothing that expressly allows this in the regulation and it’s highly questionable whether reversing credit outside of the timing requirements set out in Reg. E would be acceptable. As such, it would be most conservative to not reverse the final credit since Reg E does not specifically allow for it.



**Q: Is it permissible to apply a new account hold to a U.S. Treasury Check?**

**A:** A U.S. Treasury Check is a next day item per Reg CC § 229.10(c)(1)(i) but the holds and exceptions work the same way with a Treasury Check just as they would for any other check, so a new account hold can be placed here. For treasury checks, the first \$5,525 much be made available by the next business day and the rest no later than the 9th business day.

See our funds availability guide here: <https://compliancealliance.com/find-a-tool/tool/reg-cc-funds-availability-reference-guide/>

Reference:

*(a) New accounts. For purposes of this paragraph, checks subject to §229.10(c)(1)(v) include traveler's checks.*

*(1) A deposit in a new account—*

*(i) Is subject to the requirements of §229.10 (a) and (b) to make funds from deposits by cash and electronic payments available for withdrawal on the business day following the banking day of deposit or receipt;*

*(ii) Is subject to the requirements of §229.10(c)(1) (i) through (v) and §229.10(c)(2) only with respect to the first \$5,525 of funds deposited on any one banking day; but the amount of the deposit in excess of \$5,525 shall be available for withdrawal not later than the ninth business day following the banking day on which funds are deposited; and*

*(iii) Is not subject to the availability requirements of §§229.10(c)(1)(vi) and (vii) and 229.12.*

*(2) An account is considered a new account during the first 30 calendar days after the account is established. An account is not considered a new account if each customer on the account has*

*had, within 30 calendar days before the account is established, another account at the depository bank for at least 30 calendar days.*

[https://www.ecfr.gov/cgi-bin/text-idx?SID=462f2fffc8fa577d9071436b72a40d1b&mc=true&node=se12.3.229\\_113&rgn=div8](https://www.ecfr.gov/cgi-bin/text-idx?SID=462f2fffc8fa577d9071436b72a40d1b&mc=true&node=se12.3.229_113&rgn=div8)

**Q: What is the required charge-off date on past due unsecured loans?**

**A:** For overdraft accounts, there is a standard of 60 days for charge offs. However, there isn't one for loans. This would depend on your bank's policies.

*"In addition, overdraft balances should generally be charged off when considered uncollectible, but no later than 60 days from the date first overdrawn."*

Joint Guidance on Overdraft Protection Programs, p. 4 <https://www.federalreserve.gov/boarddocs/SRLETTERS/2005/SR0503a1.pdf>

**Q: Is the Right to Receive Appraisal form under Regulation B still required to be provided on a loan that is denied/withdrawn within three days of the application date?**

**A:** The appraisal notice requirements and the denial process are independent from one another, and their requirements operate separately. Sec. 1002.14(a)(2) of Regulation B requires the Right to Receive a Copy of the Appraisal Disclosure not later than the third business day after the creditor receives an application for credit that is to be secured by a first lien on a dwelling. Accordingly, if the loan is to be secured by a first lien on a dwelling, this notice is required. Further, see here for relatively recent guidance from the CFPB indicating that it would be required:

**"ARE DENIED OR WITHDRAWN APPLICATIONS FOR CREDIT**

**COVERED UNDER THE RULE?**

*Yes. There are no exceptions for withdrawn or denied applications. The requirements of the Rule apply regardless of whether an application is approved, withdrawn, denied, or incomplete. Thus, assuming an application is withdrawn or denied, and the requirements in Sections 2 and 3 below are met, the creditor is required to provide the disclosure and the appraisal or other written valuation to the applicant, if one was prepared in connection with the application. 12 CFR § 1002.14(a)(4). If no appraisal or other written valuation was developed in connection with the application, there is no valuation to provide to the applicant and the creditor is not required to develop one. Additionally, assuming the requirements in Sections 2 and 3 below are met, the creditor is also required to provide the applicant written notice of the right to receive a copy of all written appraisals developed in connection with the credit application within three business days of receipt, even when the application is denied or withdrawn. If a creditor denies, or an applicant withdraws, an application for credit subject to § 1002.14(a)(1) within three business days of receipt of the application, the creditor is still required to provide in writing a notice of the applicant's right to receive a copy of all written appraisals prepared in connection with the application. The creditor may choose to modify the notice of right form to make clear to the applicant that the credit application has been denied." [https://files.consumerfinance.gov/f/documents/cfpb\\_ecoa-valuation\\_transaction-coverage-factsheet.pdf](https://files.consumerfinance.gov/f/documents/cfpb_ecoa-valuation_transaction-coverage-factsheet.pdf) >>*

**Compliance Alliance** offers a comprehensive suite of compliance management solutions. To learn how to put them to work for your bank, call (888) 353-3933 or email [info@compliancealliance.com](mailto:info@compliancealliance.com) and ask for our Membership Team.



# Financial Literacy

By Melanie Cuevas, Vice President of Government Relations, California Bankers Association

California's banks are reflections of the communities that they serve. Empowering the state's youth through strong financial literacy and empowerment enhances the quality of life and is a cornerstone to helping those communities grow. This year, the California Bankers Association was pleased to support several measures that aim to support and enhance financial literacy efforts.

SB 342 (Seyarto) — Requires the Instructional Quality Commission (IQC) to include age-appropriate information for kindergarten through grade 12 when the commission next revises the history-social sciences curriculum framework. Status: Failed Deadline

SB 531 (Ochoa Bogh) — Requires the Student Aid Commission and the Department of Financial Protection and Innovation to prominently display a link to a resource made by the Federal Student Aid Information Center about financial literacy. Status: Advanced to the Assembly

AB 431 (Papan) — Requires the State Board of Education to integrate age-appropriate financial literacy components into the K12 curriculum and directs the Superintendent of Public Instruction to allocate one-time funds for instructional materials and for professional development in that content. Status: Failed Deadline

AB 546 (Ta) — Requires the State Board of Education to integrate age-appropriate financial literacy components into the K12 curriculum and directs the Superintendent of Public Instruction to allocate one-time funds for instructional materials and for professional development in that content. Status: Failed Deadline

AB 984 (McCarty) — Requires the development and

adoption of a one-semester personal finance course as a requirement for graduation commencing with the graduating class of 2028-29, and requires local educational agencies (LEAs) and charter schools to offer a one-semester course in financial literacy commencing with the 2025-26 academic year. Status: Failed Deadline

AB 1161 (Hoover) — Changes the requirements for the Instructional Quality Commission (IQC) to include age-appropriate information about estate planning and the use of trusts and wills when the history-social sciences curriculum framework is next revised. Status: Failed Deadline

ACR 34 (Chen) — Designates April 2023 as Financial Capability Month. Status: Signed by the Governor

Existing California law contains some financial literacy content for pupils in kindergarten through grade 12 and gives school districts the choice to provide financial literacy lessons, including permission for a financial literacy elective. Currently, less than one-third of California high school students attend schools that offer personal finance classes, according to the State Superintendent of Public Instruction. While 17 states require students to take a personal finance class, California does not. For years, advocates have supported efforts to strengthen financial literacy, particularly personal finance, programs in California schools. Unfortunately, those efforts have been stymied by populations expressing concern about the mandatory, rather than permissive, nature of these efforts and the burdens placed on educators who often struggle to keep up with the myriad mandatory coursework. This year is no different. Of these seven measures, five failed to advance through the legislative process thus far. >>

# Discover the Primax Difference.

All financial institutions are challenged with meeting and exceeding accelerating consumer demands. This requires competitive solutions, innovative technology, and a partner that serves as an extension of your brand.

Leveraging our best-in-class technology, Primax is designed to help financial institutions drive growth, deliver profitability and build relationships with your customers and business clients through unparalleled, tailored experiences.

Payments ■ Risk Management ■ Data Science and Analytics ■ Loyalty  
Mobile and Online Card Management ■ Contact Center Services and Solutions  
Strategic Consulting ■ Cross-Channel Marketing Solutions ■ Delinquency Management

[primax.us](http://primax.us) ■ 866.820.5400

# NEW BOARD MEMBERS

## California Bankers Association Welcomes New Board and Executive Committee Members



### Stan Ivie, Chairman, Board of Directors

Stan Ivie is Executive Vice President, Chief Risk Officer of Pacific Western Bank and PacWest Bancorp. He has served on the board of directors for the Pacific Bankers Management Institute for Pacific Coast Banking School since 2010, and on the board of California Bankers Association since 2017, where he currently serves as Chairman.

Ivie served as the regional director for the Federal Deposit Insurance Corporation's San Francisco

Region from 2007-16, and for its Dallas Region from 2005-07. Prior to that, he served as the deputy director, field operations for the FDIC's Division of Resolutions and Receiverships in Dallas, and as interim director for its Office of Public Affairs in Washington, D.C.

Ivie oversees Pacific Western Bank's charitable contributions and is an avid fan of the University of Oregon Ducks.



### Krista Snelling, Chairman-Elect, Board of Directors

Krista Snelling is the president and chief executive officer of Santa Cruz County Bank and a member of its Board of Directors. With more than 25 years of experience, Snelling joined Santa Cruz County bank in March 2021 after serving as Chief Operating Officer and Chief Financial Officer of Five Star Bank. She is a graduate of the University of the Pacific with a Bachelor of Science degree with a double major in Mathematics and Economics. She also holds a Master of Arts degree in Economics from UC Davis.

Snelling has a passion for education and mentorship. She is a

Snelling has a passion for education and mentorship. She is a

frequent guest lecturer at the Eberhardt School of Business at the University of the Pacific and guest lecturer at University of California Santa Cruz for the Economics Department. She serves on the Board of Directors and Executive Committee of the Western Bankers Association, Monterey Bay Economic Partnership, Santa Cruz County Bank and has served on the Executive Advisory Council of University of the Pacific's Eberhardt School of Business since 2011.

In 2022, Snelling was selected by Silicon Valley Business Journal as a Woman of Influence, and was recognized as a CFO of the Year and as a "Woman Who Means Business" by the Sacramento Business Journal. She received the Nancy Hotchkiss Woman of Impact Award by Commercial Real Estate Women.



### Martin Plourd, Treasurer, Board of Directors

Martin Plourd was named a director and president/ chief executive officer of Community West Bank and vice president of Community West Bancshares in November, 2011. Plourd has been in banking for 30 years and has been a bank executive for 20 years.

Since July, 2009, Plourd has worked as a consultant on engagements with bank strategic planning, acquisitions and compliance. From 2005-09, Plourd

served first as chief operating officer and then president and director of Temecula Valley Bank, in Temecula, Calif. Prior to that, he spent 18 years with Rabobank/Valley Independent Bank, in El Centro, Calif., including his last position as executive vice president and community banking officer.

Plourd is a graduate of Stonier Graduate School of Banking and California State Polytechnic University.



## Russell Colombo, Vice Chairman at Large, Board of Directors

**Russell A. Colombo** is director, Bank of Marin and Bank of Marin Bancorp. He services the California Bankers Association as vice chairman at large.

Colombo is a lifelong resident of Marin County. He received a Bachelor of Science degree in Agricultural Economics and Business

Management from the University of California, Davis, and his Master of Business Administration in Banking and Finance from Golden Gate University.

Colombo joined Bank of Marin in 2004 as executive vice president and branch administrator after 29 years in banking

at Comerica Bank, Security Pacific, and Union Bank in San Francisco. He was appointed executive vice president and chief operating officer of Bank of Marin in 2005 and assumed the position of president and CEO in 2006.

On October 31, 2021, Colombo retired from Bank of Marin and Bank of Marin Bancorp. He remains a Director on both boards. Colombo currently serves on the board of the California Bankers Association and is chairman of the Citizens Oversight Committee of Sonoma-Marin Area Rapid Transit (SMART). He is past chairman of California Bankers Association and a former member of its executive committee.

Colombo was formerly on the Board of Regents and an Audit Committee Member of Hanna Boys Center.



## John A. Cook, Member, Board of Directors

**John A. Cook** is President and Chief Executive Officer of El Dorado Savings in Placerville, California. He began his career with the bank in March of 1979 as a Real Estate Appraiser trainee and has worked in numerous capacities at the bank, including Checking Operations Department Manager, Chief Appraiser, Corporate Property Manager and Chief Lending Officer.

He became President and Chief Operating Of-

ficer in January, 201 and then Chief Executive Officer in January 2020. Mr. Cook has served on the Legislative Affairs Committee of the California Bankers Association and on the Mortgage Markets Committee of the American Bankers Association.

Mr. Cook was born and raised in Sacramento and now resides in El Dorado Hills with his wife, Cheri.



## Rick Sowers, Member, Board of Directors

**Rick L. Sowers** serves as President and CEO of CalPrivate Bank.

Sowers is a Southern California native and a 1995 graduate of UCSD. He applied his Bachelor's of Science degree in Economics first with Accenture Consulting in Los Angeles, later joining CAST Management Consultants, where he spent a decade as a vice president/associate partner. Sowers specialized in creating bank efficiencies, profitability and optimizing customer focus and

experience.

In 2008, Sowers joined Bank of Manhattan/Manhattan Bancorp as executive vice president and chief banking officer. He became president of the bank prior to its merger with Plaza Bank, Irvine, Calif., in 2015. There Sowers held positions starting from executive vice president and chief strategy officer to chief operating officer. He served as the bank's president until Plaza Bank was successfully sold in 2017.



## Jared Steinwert, Member, Board of Directors

**Jared G. Steinwert** is a Regional Senior Vice President, Wholesale Banking at Farmers & Merchants Bank of Central California, a locally owned and operated community bank founded in 1916 and headquartered in Lodi, California. Jared joined the Bank in 2009 and completed its extensive Executive Management Training Program. His career has progressed, starting as a Relationship Manager in Stockton, California. In his current role, Jared oversees five of the com-

pany's commercial markets and also serves as a member of the executive management committee. He is active in the community having served in leadership positions with community-based organizations in an effort to support the community.

Jared and his wife, Jena, live in Modesto and are the proud parents of their recently born daughter, Ella.

# CBA ANNUAL CONFERENCE

APRIL 2023











# 2023 CBA Advertiser Index

## Deposit Funding/Investments

PMA Financial ..... Page 28

## Education

ABA ..... Page 26

## Financial Services

Primax ..... Page 19

MCC ..... Page 9

Shield Compliance ..... Page 2

Eide Bailly ..... Page 27

## Healthcare

BHG Bank Network ..... Page 3

## Tax and Flood Service

Nationwide Real Estate ..... Page 15



[www.CalBankers.com](http://www.CalBankers.com)



For advertising  
<https://bankbeat.biz/advertise/>

## ABA Professional Certifications in Compliance and Risk Management

- ◆ Certified Regulatory Compliance Manager (CRCM)
- ◆ Certified Enterprise Risk Manager (CERP)
- ◆ Certified AML and Fraud Professional (CAFP)

[aba.com/Certifications](http://aba.com/Certifications)



American  
Bankers  
Association®



CPAs & BUSINESS ADVISORS

work **smarter,**  
not harder.

Streamlining your community bank's processes can take the pressure off your operations and make space to do more of what you enjoy.

888.777.2015 | [eidebailly.com/fi](http://eidebailly.com/fi)



# Funding Solutions That Meet Changing Times

PMA Funding (PMA) is a leader in providing institutional funding options. One call gains access to:

- Our experienced funding team  
(Over 100 years of combined experience)
- Our large sources of political subdivision depositors  
(4,000+ public entities)

The result: financial institutions have been able to diversify and manage their liquidity needs with greater flexibility by utilizing tailored funding solutions.

**PMA is more than just a depositor;  
we are your partner.**

**Relax. We do the work.**

**Contact us today!  
800.783.4273 | PMAFUNDING.COM**