



# COMPLIANCE BRIEF

June 2022



## AGENDA

- FCRA Permissible Purpose Clarification
- FinCEN Advisory on Elder Financial Exploitation
- FinCEN Statement on CDD of Independent ATM Owners and Operators
- DOD MLA Website update
- State Law Changes 7/1/22



## FCRA Clarification

- FCRA Permissible Purpose
  - Safety and soundness examiners citing banks for not pulling consumer report during annual account review
  - FTC's 40 Years of FCRA states: Review/Collection of account is a permissible purpose...
    - Where creditor has existing account relationship with the consumer **and** uses the report **solely** to decide whether to modify the terms of the existing account.
    - For closed-end credit transactions, terms are predetermined and may not be changed unilaterally by creditor; therefore **creditor does not have a "review" permissible purpose.**
- Confirmed by CFPB and Washington FDIC

June 29, 2022

IBA Compliance Brief

3



## FCRA Clarification

- |   |  |
|---|--|
| <ul style="list-style-type: none"> <li>• Permissible Purpose           <ul style="list-style-type: none"> <li>• Borrower requests loan extension</li> <li>• Borrower requests change in loan terms</li> <li>• Borrower is delinquent and requests workout agreement</li> <li>• Borrower requests annual operating line renewal</li> </ul> </li> </ul> | <ul style="list-style-type: none"> <li>• <b>NO</b> Permissible Purpose           <ul style="list-style-type: none"> <li>• Annual "credit check" on performing closed-end loan</li> <li>• Curiosity...borrower has new purchases and bank wants to know where they were financed</li> <li>• In anticipation of credit request when borrower has not taken affirmative action to request credit</li> </ul> </li> </ul> |
|---|--|

June 30, 2022

IBA Compliance Brief



## FinCEN Elder Financial Exploitation (EFE) Advisory

- Issued June 15 - FIN-2022-A002 - [Elderly Financial Exploitation Advisory \(fincen.gov\)](https://www.fincen.gov/press-releases/2022-06-15-elderly-financial-exploitation-advisory)
  - Update to 2011 Advisory on EFE
    - 2020 – over 62,000 SARs filed on EFE w/ \$3.4B in suspicious transactions
    - 2021 – over 72,000 SARs filed

### Elder Theft

- Schemes involving theft of assets
- Often conducted by trusted person

### Elder Scams

- Scams involving transfer of money for promised benefit or goods
- Typically conducted by stranger or imposter

June 30, 2022

IBA Compliance Brief

5



## FinCEN EFE Advisory

- Typologies of each type of each EFE explained
- Advisory provides Case Studies
- Behavioral and Financial Red Flags & Associated Payments
- SAR filing tips
- **GREAT TRAINING TOOL!**



June 30, 2022

IBA Compliance Brief

6



## FinCEN Statement CDD for Independent ATM Owners/Operators

- [Issued June 22](#)
- Reminder not ALL independent ATM owners/operators pose same level of risk for money laundering & terrorist financing
- Banks should apply CDD procedures to determine risk level
  - Based on assessed risk, apply appropriate procedures and processes
  - FinCEN does not recommend simply denying banking services as this is important service for many consumers

June 30, 2022

IBA Compliance Brief

7



## FinCEN Statement CDD for Independent ATM Owners/Operators

- FinCEN indicates following info may be useful in assessing risk, but is not required to be collected
  - Operating policies and procedures of operator
  - ATM currency servicing arrangements, contracts & responsibilities
  - Source of funds to replenish ATM if bank account isn't used
  - Description of expected and actual ATM activity levels, including currency transactions
  - Information to understand whether ATM operations are ancillary to other retail operations or the primary business of the customer

June 30, 2022

IBA Compliance Brief

8



## DoD MLA Website Update

- Scheduled for June 30 - <https://mla-ap.dmdc.osd.mil/mla/#/home>
- Security enhancements
- Users will notice changes:
  - Last Login Date added at the bottom of the web page
  - Removal of reCAPTCHA challenges
  - A title will be added to account creation pages for easier navigation
  - DUNS numbers can be added with or without dashes

June 30, 2022

IBA Compliance Brief

9



## Iowa Law Change

- Effective July 1, 2022
- Amends several provisions relating to loans secured by real property
  - Section 524.905(2) – now optional for banks to pay interest on borrower funds held in escrow
  - Section 524.905(3) – amended to harmonize requirements applicable to annual escrow reports – now consistent with RESPA section 1024.17
  - Section 524.910(2)- adopts a 10-year maximum holding period for OREO property mirroring federal law

June 30, 2022

IBA Compliance Brief

10



## Got Compliance Questions?

- On IBA website:
  - [Compliance Tools & Resources](#)
  - [Publications](#)
    - Disclosure, Iowa Banking Guide, Check Handling Guide, Record Retention Manual & more
  - [Training](#)
    - Compliance Briefs, On-demand training & more
- Compliance Hotline
  - [compliance@iowabankers.com](mailto:compliance@iowabankers.com)
  - 844-REGS411 (or 844-734-7411)

