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RegAdvisor Pro Briefing

Q1 2023

April 13, 2023



This session will be recorded

Please note:



Clients will have access to the slides and recording in the “Webinars” section of the Support Center on the Continuity platform. Please feel free to share the presentation with peers who were unable to attend today. *(Note: As shown below, this can be done via the “Review RegAdvisor Briefing Webinar” RegControl in the Continuity Training Webinars SmartFolder, which is updated within a week of the webinar.)*



Review RegAdvisor Briefing Webinar

Copy Control New ToDo

This Control allows employees to watch Continuity's RegAdvisor Briefing webinar.

OFF **Review RegAdvisor Briefing Webinar**

  Every Quarter from 2021-02-16

 (no assignees) 

Questions?

Clients:

Please submit your questions through the “Help” feature on the platform.

Guests:

Please enter your questions in the Q&A box on your screen and a representative will answer all questions after the webinar.

Presenting today

Donna Cameron, CRCM, CCBCO

Senior Regulatory Compliance Expert

- 25+ years in the industry
- Former Compliance/BSA Officer
- Oversees development and delivery of Mitrastech's/Continuity's RegAdvisor®**Pro**, RegAdvisor®**State**, and RegAdvisor®**EA** Alerts as well as weekly and monthly Reg**Facts** briefings



Mitratech's GRC portfolio is designed to deliver process efficiency and technology excellence to the financial services industry



Cyber Security Management



Integrated Risk Management (ERM)



I.T. Risk Management



Third-Party Risk Management



Internal Controls & Compliance



ESG Management



Policy Management



Model Risk Management

RegFacts

Weekly RegFacts briefings are located in the Support Center on the platform.

A summary video is also included in Mitratesch's *Monthly Digest*.

These briefings contain the latest actionable information from our team of experts.

The logo for RegFacts, with 'Reg' in dark blue and 'Facts' in green.

Weekly Updates Provided By

The logo for Continuity, with 'Continuity' in dark blue and 'MITRATECH' in smaller dark blue letters below it. The 'u' in 'Continuity' is stylized with a green arrow.

WELCOME TO

MitraTECH Touches



December 2022
Compliance & Risk
Monthly Newsletter

INTERACT x MITRATECH

WE'RE LETTING THE GOOD TIMES ROLL... ALL THE WAY TO NOLA!

Interact 2023

New Orleans

..... OCTOBER 2-5, 2023



Save your spot for Interact 2023!

There is no payment required to RSVP at this time

Agenda

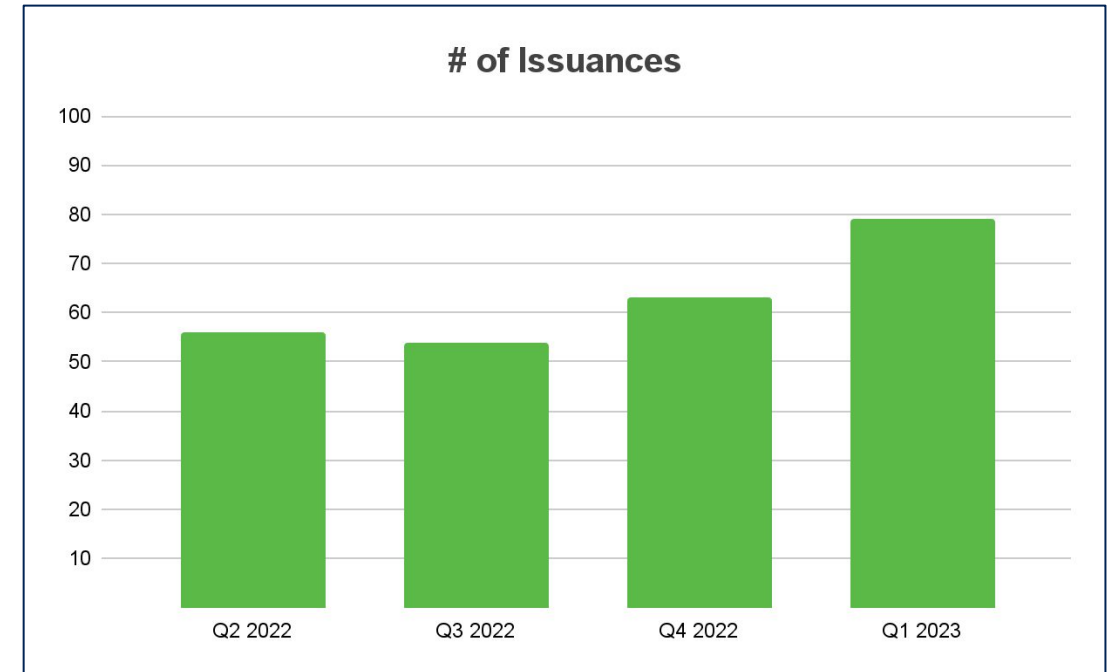
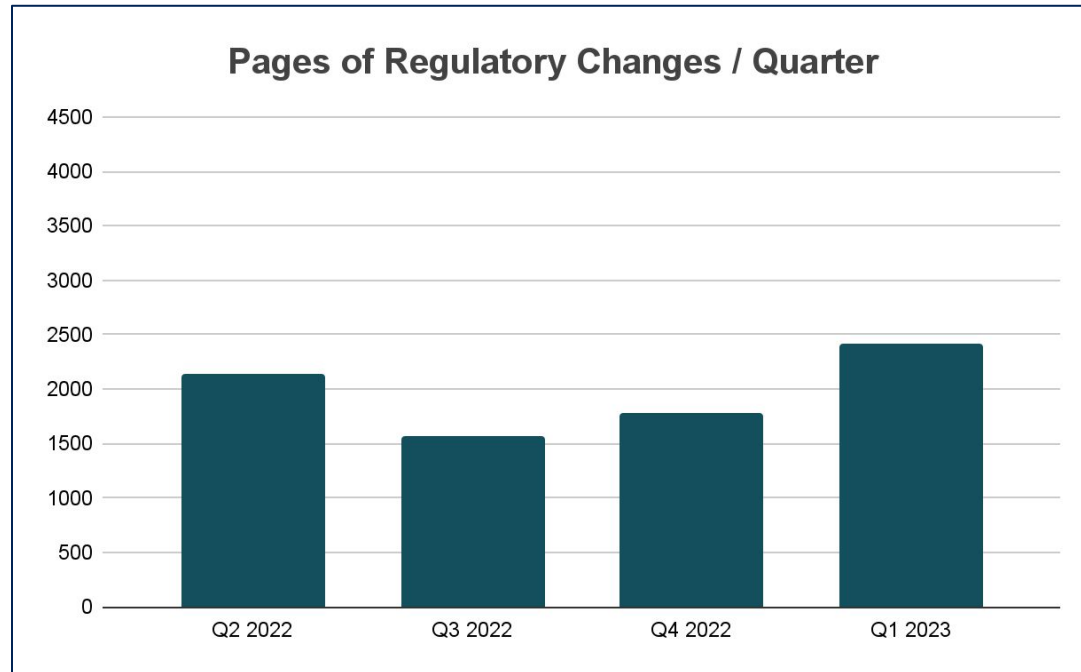
- Introduction
- ROC Quarterly Data
- RegAdvisorPro Update
 - ACH
 - BSA
 - CRA
 - Compliance
 - IT
 - Safety & Soundness
 - Other

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ROC Data



ROC Quarterly Data



Average Q1 Compression Rate = 94%

RegAdvisorEA

January 1, 2023 - March 31, 2023

- 34 Enforcement Action Alerts Issued
- 13 EAs included action taken against individuals
- \$159,067,105 total penalties imposed (22 EAs resulted in penalties)

*Contact your Account Manager to add
RegAdvisor[®]EA to your subscription!*

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RegAdvisor Pro Analysis

ACH



RegAdvisor Pro Update

No final or proposed rules

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Other items

3/30 - [ACH: Update to Sample Written Statement of Unauthorized Debit](#)

Nacha updated the sample Written Statement of Unauthorized Debit (WSUD) to include language alerting consumers of the risks of making false claims of unauthorized ACH debits to their financial institutions.

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RegAdvisor Pro Analysis

BSA/OFAC



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Final rules

1/13 - [2023 OFAC CMP Adjustments](#)

1/19 - [2023 FinCEN CMP Adjustments](#)

3/27 - [Belarus Sanctions Regulations](#)

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Proposed rules

1/17 - [Beneficial Ownership Information Reports](#) (comments due 3/20/2023)

1/17 - [Individual FinCEN Identifier Application Form](#) (comments due 3/20/2023)

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Other items

1/13 - [FinCEN Alert on Human Smuggling](#)

FinCEN issued an alert to better aid financial institutions in the detection of financial activity related to human smuggling along the U.S. southwest border, as well as to highlight typologies and red flags.

1/25 - [FinCEN Alert on Potential Investments by Sanctioned Russian Elites, Oligarchs, and Their Proxies](#)

FinCEN issued an alert to advise financial institutions about the potential for sanctioned Russian elites, oligarchs, their family members, and the entities through which they act to attempt to evade sanctions through investments in the U.S. commercial real estate sector.

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Other items

2/27 - [FinCEN Alert on Mail Theft-Related Check Fraud](#)

FinCEN issued an alert to assist financial institutions in identifying and reporting mail theft-related check fraud. The alert provides typologies and red flags associated with this type of fraud.

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Other items

1/23 - [Imposition of Special Measure Prohibiting the Transmittal of Funds Involving Bitzlato](#)

FinCEN issued a special measure prohibiting certain transmittals of funds by any covered financial institution involving Bitzlato Limited, a financial institution operating outside of the United States determined to be of a primary money laundering concern in connection with Russian illicit finance.

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Other items

3/2 - [OFAC Compliance Note on Russia-Related Sanctions Evasion and Export Controls](#)

OFAC, together with the Departments of Commerce and Justice, issued a “compliance note” to highlight tactics that bad actors may use to try to evade Russia-related sanctions and export controls.

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Other items

3/9 - [Changes to FATF Lists - March 2023](#)

FinCEN announced that the FATF has suspended the Russian Federation's membership.

The FATF also updated lists of jurisdictions with strategic anti-money laundering, combating the financing of terrorism, and combating weapons of mass destruction proliferation financing deficiencies.

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Other items

3/24 - [Beneficial Ownership Reporting Guidance](#)

FinCEN released guidance material to help companies that are subject to the Beneficial Ownership Reporting rule.

Note that the reporting rule does not apply to banks or credit unions.

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Issuance	RegControls/Support Center Articles
FinCEN Alert on Human Smuggling	Assess BSA/AML/OFAC Risk
FinCEN Alert on Potential Investments by Sanctioned Russian Elites, Oligarchs, and Their Proxies	Monitor Suspicious Activity Report (SAR) Compliance
FinCEN Alert on Mail Theft-Related Check Fraud	Record a Suspicious Activity Report (SAR) Filing

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CRA



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No final or proposed rules

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Other items

2/17 - [2023 CRA Data Entry Software](#)

The 2023 version of the CRA Data Entry Software (DES) is now available for download and use for data submissions due March 1, 2024.

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Issuance	RegControls/Support Center Articles
2023 CRA Data Entry Software	Record CRA Software Update

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Compliance



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Final rules

1/20 - [TCPA: Limits on Exempted Calls - Effective Date](#)

1/20 - [TCPA: Consumer Consent](#)

3/20 - [Agency Contact Information](#)

TCPA: Limits on Exempted Calls - Effective Date

TCPA: Consumer Consent

When - Published 1/20; effective 7/20/2023

Who - Organizations subject to TCPA

What - Announcement of effective date; clarification of consent requirements

Why - To announce effective date and clarify consent requirements

How - The FCC announced that the “number of calls” limitations and “opt-out” requirements in its February 2021 “Exemptions Implemented Under the TCPA” rule will be effective on July 20, 2023.

The FCC also amended its rules to specifically allow callers to obtain either oral or written consent to exceed the limits on exempted artificial or prerecorded voice message calls to residential telephone lines and is re-affirming the numerical limits and opt-out requirements for such calls.

Agency Contact Information

When - Published 3/20; effective 4/19/2023

Who - Organizations subject to Regs B, E, F, J, V, X, Z, and DD

What - Updates to agency contact information

Why - To provide updated information

How - The CFPB updated Federal agency contact information found at certain locations in Regulations B, E, F, J, V, X, Z, and DD. While most of these changes are non-substantive and will require no action, addresses will need to be updated on adverse action notices as well as the Fair Credit Reporting Act *Summary of Consumer Rights*.

The CFPB also provided a website address where the public may access certain APR tables referenced in Regulation Z.

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Proposed rules

2/1 - [FDIC Official Sign and Advertising Requirements: Comment Period Extended](#)
(comment period extended to 4/7/2023)

3/29 - [Credit Card Penalty Fees](#) (comments due 5/3/2023)

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Other items

1/18 - [CFPB Updates Mortgage Servicing Exam Procedures](#)

The CFPB revised the “Mortgage Servicing” section of its Supervision and Examination manual. The revisions do not impose new or changed requirements.

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Other items

1/20 - [CFPB Requests Information on Consumer Credit Card Market](#)

The CFPB is asking for information about a number of aspects of the consumer credit card market. The information will be used as part of the agency's required review of this market.

(Comments due 4/24/2023)

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Other items

1/30 - [CFPB: Unlawful Negative Option Marketing Practices](#)

The CFPB issued a Consumer Financial Protection Circular to advise that persons that engage in negative option marketing practices may violate UDAAP provisions of the Consumer Financial Protection Act.

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Other items

- 1/31 - [FRB: Changes to Closed-End HMDA Reporting Threshold](#)
- 2/1 - [OCC: Changes to Closed-End HMDA Reporting Threshold](#)
- 2/2 - [NCUA: Changes to Closed-End HMDA Reporting Threshold](#)
- 2/2 - [FDIC: Changes to Closed-End HMDA Reporting Threshold](#)

The agencies announced that they will not initiate enforcement actions or cite HMDA violations for failures to report closed-end mortgage loan data on reportable transactions conducted in 2022, 2021, or 2020 for affected banks that meet Regulation C's other coverage requirements. This is in response to a previously announced court ruling that vacated part of the CFPB's 2020 HMDA final rule and re-established the 2015 threshold (25 loans) for reporting closed-end mortgage loans.

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Other items

2/13 - [CFPB: Digital Mortgage Comparison-Shopping Platforms](#)

The CFPB issued an Advisory Opinion regarding the applicability of RESPA's section 8 to digital technology platform operators that enable consumers to comparison shop for mortgages and other real estate settlement services, including platforms that generate potential leads for platform participants through consumers' interaction with the platform.

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Other items

3/16 - [Regulation Z's Mortgage Loan Originator Rules Review](#)

The CFPB is asking for information about Regulation Z's Mortgage Loan Originator Rules. The CFPB is reviewing these rules as mandated by the Regulatory Flexibility Act, which requires that all rules that have a significant economic impact on a substantial number of small entities be reviewed every ten years.

(comments due 5/1/2023)

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Other items

3/23 - [Unfair Billing and Collection Practices After Bankruptcy Discharges of Certain Student Loan Debts](#)

The CFPB issued a Compliance Bulletin and Policy Guidance to advise that servicers must determine whether a student loan discharged in bankruptcy is a “qualified” or “non-qualified” loan before attempting to collect the loan. Billing and collecting payments on “non-qualified” loans is prohibited and a violation of the Consumer Financial Protection Act's prohibition on unfair, deceptive, or abusive acts or practices.

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Small Business Lending under the Equal Credit Opportunity Act (Regulation B)

On 3/30, the CFPB released its final “Section 1071” rule. The rule has not yet been published in the *Federal Register*.

The rule applies to lenders who originated **at least 100** covered loans in the last two years.

Implementation dates vary depending on the number of covered loans that a lender originates in 2022 and 2023.

Watch for our RegAdvisor Alert as well as announcement of a complimentary, clients-only training webinar (late summer/early fall).

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Section 1071 - What you can do now

- Determine whether “gross annual revenue” information is readily available and retrievable
 - If not, implement systems to begin recording this information by October 1, 2023
- Did you originate at least 100 covered loans in 2022? If so, do you expect to meet that threshold in 2023?

Covered loans include:

- Business-purpose;
- Borrower had gross annual revenue of \$5 million or less in its last fiscal year; and
- Closed-end loans, open-end lines of credit, credit cards, merchant cash advances, and agricultural credit.

Mandatory Compliance Dates

Compliance date tier	Origination threshold for the compliance date tier	Date that a covered financial institution begins collecting data and otherwise complying with the final rule	Deadline for a covered financial institution to report first year of data to the CFPB
Tier 1	At least 2,500 covered originations in both 2022 and 2023	October 1, 2024	June 1, 2025

Mandatory Compliance Dates

Compliance date tier	Origination threshold for the compliance date tier	Date that a covered financial institution begins collecting data and otherwise complying with the final rule	Deadline for a covered financial institution to report first year of data to the CFPB
Tier 2	At least 500 covered originations in both 2022 and 2023 but not 2,500 or more covered originations in both 2022 and 2023	April 1, 2025	June 1, 2026
Tier 3	At least 100 covered originations in both 2022 and 2023 but not 500 or more covered originations in both 2022 and 2023	January 1, 2026	June 1, 2027

Mandatory Compliance Dates

Additionally, even if it originated fewer than 100 covered originations in 2022 or 2023, a financial institution that originates at least 100 covered originations in 2024 and 2025 must collect data and otherwise comply with the final rule beginning January 1, 2026.

Source: [SMALL BUSINESS LENDING RULE INFO SHEET: WHEN MUST A FINANCIAL INSTITUTION BEGIN COLLECTING DATA AND COMPLYING WITH THE SMALL BUSINESS LENDING RULE?](#)

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Section 1071 RegControls (in development, subject to change)

- Determine an Application's Small Business Lending Data Collection & Reporting Status
- Determine Lender's Small Business Lending Data Collection & Reporting Status
- Monitor Small Business Lending Firewall Requirements
- Monitor Small Business Lending LAR Accuracy
- Monitor Small Business Lending Records
- Record Small Business Lending LAR Submission
- Review a Small Business Lending Reportable Application

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Polling question:

Is gross annual revenue for 2022 and 2023 recorded in a format that makes it easily accessible and retrievable?

Yes

No

N/A - We don't originate business loans

Not sure

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Issuance	RegControls/Support Center Articles
Changes to Closed-End HMDA Reporting Threshold	Determine HMDA Reporting & Partial Exemption Status (Effective 1/1/2022 and after)
CFPB: Digital Mortgage Comparison-Shopping Platforms	RESPA Policy Template
Agency Contact Information	Review Adverse Action - Credit Application Review a HELOC Application Review a Non-Originated Mortgage Loan File (10/3/2015 and after)

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IT



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Final rules

3/1 - [NCUA Cyber Incident Notification Requirements](#)

NCUA Cyber Incident Notification Requirements

When - Published 3/1; effective 9/1/2023

Who - Federally-insured credit unions

What - New notification requirement

Why - To ensure that the NCUA is aware of incidents

How - The NCUA amended its regulations to require a federally insured credit union (FICU) that experiences a reportable cyber incident to report the incident to the NCUA as soon as possible and no later than 72 hours after the FICU reasonably believes that it has experienced a reportable cyber incident.

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Other items

3/21 - [CFPB Requests Information on Data Brokers](#)

The CFPB is asking for information about “data brokers”, which is an umbrella term to describe firms that collect, aggregate, sell, resell, license, or otherwise share consumers' personal information with other parties.

Comments are due by 6/13/2023

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Other items

3/22 - [FTC Requests Information on Cloud Computing](#)

The FTC is seeking comments about the practices of cloud computing providers and their impact on end users in specific industries, including but not limited to healthcare, finance, transportation, eCommerce, and defense.

Comments are due by 5/22/2023

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Issuance	RegControls/Support Center Articles
NCUA Cyber Incident Notification Requirements	Report a Cyber Incident - Credit Union (<i>in development</i>)

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Safety & Soundness



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Final Rules:

1/3 - 2023 CFPB Civil Penalty Adjustments

1/13 - 2023 FCA Civil Money Penalty Adjustments

1/13, 2/8, 3/29 - Regulation A: Extensions of Credit by FRBs

1/13, 2/8, 3/29 - Regulation D: Interest Paid on FRB Balances

1/26 - Regulation Implementing the Adjustable Interest Rate (LIBOR) Act

1/30 - FTC: Premerger Notification; Reporting and Waiting Period Requirements

3/27 - NCUA Subordinated Debt Rule Amendments

Regulation Implementing the Adjustable Interest Rate (LIBOR) Act

When - Published 1/26; effective 2/27/2023

Who - Organizations with contracts specifying LIBOR as the reference rate

What - Rule amendments

Why - To prepare for discontinuation of LIBOR

How - The Federal Reserve Board finalized a rule establishing benchmark replacements for contracts governed by U.S. law that reference certain borrowing periods, known as tenors, of U.S. dollar LIBOR and that do not have terms that provide for the use of a clearly defined and practicable replacement benchmark rate following the first London banking day after June 30, 2023.

FTC: Premerger Notification; Reporting and Waiting Period Requirements

When - Published 1/30; effective 2/27/2023

Who - Entities subject to the FTC's premerger notification rules

What - Rule amendments

Why - To conform the rules to new filing fee tiers

How - The FTC amended its premerger rules so that examples and forms conform to new filing fee tiers enacted by the Merger Filing Fee Modernization Act of 2022 ("2022 Amendments").

NCUA Subordinated Debt Rule Amendments

When - Published 3/27; effective 4/26/2023

Who - Amendments to Subordinated Debt rule

What - Rule amendments

Why - To extend certain timeframes

How - The amended rule extends the regulatory capital treatment of Grandfathered Secondary Capital issued under the ECIP, and allows credit unions to apply to issue Notes with maturities greater than 20 years.

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Other Items

1/3 - [Joint Statement on Crypto-Asset Risks](#)

The Federal Reserve Board, FDIC, the OCC issued a joint statement regarding crypto-asset risks to banking organizations.

2/13 - [Liquidity Risks From Crypto-Asset Market Vulnerabilities](#)

The Federal Reserve Board, FDIC, and the OCC issued a joint statement regarding the potential liquidity risks that can result from certain sources of funding of deposits from crypto-asset-related entities. In addition to highlighting possible risks, the statement provides suggested risk management practices.

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Other Items

1/12 - [OCC Revises “Fair Lending” Booklet](#)

1/13 - [FCA Updates Corporate Governance Manual](#)

1/30 - [FCA Updates Allowance for Losses and Investments Exam Procedures](#)

1/30 - [NCUA Releases New Updated FAQs on CECL, Simplified CECL Tool](#)

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Other Items

2/6 - [NCUA Guidance: Expansion of Permissible CUSO Activities and Associated Risks](#)

The NCUA issued a guidance statement to remind credit unions of the expanded opportunities to work with CUSOs and to address some of the primary related risks.

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Other Items

2/7 - [Policy Statement on Section 9\(13\) of the Federal Reserve Act](#)

The Federal Reserve Board issued a policy statement to advise that the Board will use its discretion to limit state member banks to engaging as principal only in those activities that are permissible for national banks, unless those activities are permissible for state banks by federal statute or under part 362 of the FDIC's regulations.

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Other Items

3/1 - Loan Interest Rate Ceiling for FCUs Remains at 18 Percent

The NCUA Board advised Federal credit unions that the current 18 percent permissible rate ceiling for loans made by FCUs will be continued through September 10, 2024. The previous 18 percent rate ceiling expired on March 10, 2023.

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Other



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Final Rules:

- 1/10 - [2023 NCUA Civil Monetary Penalty Adjustments](#)
- 1/11 - [2023 FTC Adjustments to Civil Penalty Amounts](#)
- 1/11 - [2023 Federal Reserve CMP Adjustments](#)
- 3/31 - [Reinstatement of HUD's Discriminatory Effects Standard](#)

Reinstatement of HUD's Discriminatory Effects Standard

When - Published 3/31; effective 5/1/2023

Who - Entities involved with the sale, rental, or financing of residential real estate

What - Reinstatement of 2013 rule

Why - Reconsideration of 2020 rule

How - HUD reinstated and recodified its 2013 rule titled “Implementation of the Fair Housing Act's Discriminatory Effects Standard” and will not implement its 2020 final rule titled “HUD's Implementation of the Fair Housing Act's Disparate Impact Standard”.

The 2020 Rule never took effect due to a preliminary injunction that stayed implementation and enforcement of the Rule.

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Proposed rules

1/30 - CFPB: Registry of Nonbank Covered Persons Subject to Certain Agency and Court Orders (comments due 3/31/2023)

2/1 - CFPB: Registry of Supervised Nonbanks that Use Form Contracts to Impose Terms and Conditions that Seek to Waive or Limit Consumer Legal Protections (comments due 4/3/2023)

2/1 - Indorsement and Payment of Checks Drawn on the United States Treasury (comments due 4/3/2023)

2/28 - NCUA: Chartering and Field of Membership (comments due 5/30/2023)

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Other Items

1/20 - [FTC: Revised Jurisdictional Thresholds for Section 8 of the Clayton Act](#)

The FTC revised its thresholds for interlocking directorates required by Section 8 of the Clayton Act. Section 8 prohibits, with certain exceptions, one person from serving as a director or officer of two competing corporations if two thresholds are met.

1/26 - [FTC: Revised Jurisdictional Thresholds for Section 7A of the Clayton Act](#)

The FTC revised its thresholds for the pre-merger notification provisions of Section 7A of the Clayton Act.

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Other Items

1/25 - Federal Credit Union Operating Fee Schedule for 2023

The NCUA announced that federal credit union operating fees will decrease by an average of approximately 1.8 percent in 2023.

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Other items

2/7 - [OCC Revises “Branch Closings” Booklet](#)

2/16 - [OCC Updates "Change in Bank Control" Booklet](#)

3/30 - [FDIC Guidance on Helping Victims of Severe Weather in Mississippi](#)

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Issuance	RegControls/Support Center Articles
OCC Revised “Branch Closings” Booklet	Record Branch Closing, Relocation, or Consolidation

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**Mitratech's Annual
Continuity Client
User Group 2023**

May 4th | 9 AM - 12 PM CT

Continuity



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