Recent and Upcoming Regulatory Compliance Changes

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LAW/REGULATION	Impact	Rules Citation	Effective Date	Comment/Summary
FINAL RULES AND ASSOCIATED ACTIONS:				
Interagency Rule to Implement Quality Control Standards for the use of AVMs as required by Dodd Frank Act §1125 – OCC, FRB, FDIC, NCUA, CFPB, FHFA	Moderate (business and consumer purpose loans secured by primary dwelling)	On agencies' websites 6/24/2024	1st day of calendar qtr. 12 months after publication in the Federal Register	The agencies are finalizing the proposed rule largely as proposed. The rule implements quality control (QC) standards for use of automated valuation models (AVMs) in determining the value of principal dwelling collateral in certain residential mortgage loans, when making credit decisions. The rule creates new paragraph (i) to Regulation Z, 1026.42, and revises the definition of "consumer" for this purpose only, to include a natural person to whom credit is offered or extended, even if the credit is primarily for business or commercial purposes. The rule requires mortgage originators and secondary market issuers to adopt and maintain policies, practices, procedures, and control systems to ensure that AVMs used in covered transactions adhere to QC standards designed to: (1) Ensure a high level of confidence in the estimates produced; (2) Protect against the manipulation of data; (3) Avoid conflicts of interest; (4) Require random sample testing and reviews; and (5) Comply with applicable nondiscrimination laws.
Rule to establish minimum attributes for standard setting bodies under §1033 of Dodd Frank Act – CFPB	Minor	89 FR 49084 6/11/24	7/11/24	The rule outlines the qualifications and a five-step process to become a CFPB-recognized industry standard setting body that can issue compliance standards for the upcoming Personal Financial Data Rights Rule (Proposed rule summarized below). The standard-setting body must use documented and publicly available policies and procedures, provide adequate notice of meetings, sufficient time to review drafts and prepare views and objections, allow access to views and objections of other participants, and a fair and impartial process for resolving conflicting views. The CFPB invites interested standard setters to begin engaging with them as soon as they can demonstrate adherence to the attributes.
Interpretive Rule related to Buy Now, Pay Later (BNPL) products - CFPB	Potentially Major (For BNPL lenders)	89 FR 47068 5/31/24	7/30/24	The CFPB has issued an interpretive rule to address the applicability of Subpart B of Reg. Z to lenders that issue digital user accounts (DUAs) used to access credit, including lenders who market loans as Buy Now, Pay Later (BNPL). This interpretive rule describes how lenders meet the criteria for being "card issuers" for purposes of Reg. Z, even though traditional BNPL products do not meet Reg Z's definition of open-end credit. Lenders that extend BNPL credit are "creditors" subject to subpart B of Reg Z (1026.2(a)(17)(iii)), including the provisions governing periodic statements and billing disputes because, as stated in the interpretive rule "Congress expressly instructed the Bureau to apply open-end credit regulations to this form of credit that is not open end." The interpretive rule goes on to confirm however, that lenders that issue DUAs to access BNPL credit are generally not subject to the credit card regulations of Subpart G of Reg Z. Although the CFPB states it is not required to do so, it is accepting comments for consideration, through 8/1/24.
Rule to adjust the dollar amounts thresholds under the EFA Act for inflation – CFPB and FRB	Minor	89 FR 43737 5/20/24	7/1/25	Regulation CC's dollar thresholds are adjusted (as required every 5 years) based on CPI-W measured inflation. Adjustments are: 1) next day availability amount will be $275 (from $225); 2) the amount that must be available for withdrawals by cash or other means (second business day) will be $550 (from $450); and 3) new account and exception holds allowed for amounts over $6,725 (from $5,525). *As a reminder, per Reg CC's change in terms provision, FIs must provide a notice to consumer account holders within 30 days after implementation of a change that expedites the availability of funds.*
Rule to amend Regulation Z to address excessive Credit Card Late Fees - CFPB	Major (For large card issuers)	89 FR 19128 3/15/24	Effective ~~5/14/24~~ *Stayed	The final rule amends Reg. Z to "better ensure that the late fees charged on credit card accounts are 'reasonable and proportional' to the late payment as required under TILA." The final rule exempts small credit card issuers (those who, with their affiliates, had fewer than one million open credit card accounts for the entire preceding calendar year) and also maintains their late fee safe harbor thresholds, increasing them to reflect changes in the CPI (from $30 to $32 for initial, and $41 to $43 for subsequent violations). For larger card issuers, the final rule adopts a $8 late fee safe harbor threshold which is not adjustable for inflation, and related sample forms. Larger card issuers can charge higher late fees if they can prove the fee covers their actual collection costs. The rule does not adopt the proposed provision that late fees cannot exceed 25% of the required payment. An unofficial redline to Reg Z showing the Final Rule is available here. **The final rule has been stayed pursuant to court orders issued in Chamber of Commerce of the USA v. CFPB, No. 4:24-cv-00213-P (N.D. Tex. 5/10/24).*

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FINAL RULES AND ASSOCIATED ACTIONS:				
Rule To Close Lead Generator Loophole and to Require Intentional Consumer Consent - FCC	Minor (for first party non automated tele-marketing)	89 FR 5098 1/26/24	Majority of provisions effective 3/26/24	Among other things, the FCC's new rule making amends the definition of "prior express consent" (47 C.F.R. Sec. 64.1200(f)) to prevent consumers receiving calls and texts from multiple businesses based on a single grant of consent, more specifically, by a lead generator. As revised, the term prior express written consent means an "agreement, in writing, that bears the signature of the person called or texted that clearly and conspicuously authorizes no more than one identified seller to deliver or cause to be delivered to the person called or texted advertisements or telemarketing messages using an automatic telephone dialing system or an artificial or prerecorded voice. Calls and texts must be logically and topically associated with the interaction that prompted the consent and the agreement must identify the telephone number to which the signatory authorizes such advertisements or telemarketing messages to be delivered." Thus, a consumer giving consent on a car loan comparison shopping website does not consent to get robocalls/texts about loan consolidation. The rule also amends the National Do-Not-Call Registry regulations to explicitly state that DNC protections apply to text messaging. *Note: On 3/5/24 the FCC issued a final rule on revocation of consent for robocalls and robotexts. The TCPA is a complex and litigious law. We believe compliance efforts should be confirmed with legal counsel.*
Interagency Final Rule to Amend Regulations Implementing the CRA - FRB, FDIC, OCC	Major (Excludes CUs)	89 FR 6574 2/1/24	~~Effective 4/1/24~~ Compliance date for majority of provisions 1/1/26	The rule updates asset size thresholds for Small banks (<$600M, up from <$376M), Intermediate banks ($600M–<$2B, up from $376M–$1.503B), and Large banks (≥$2B, up from ≥$1.503B), which will adjust annually. With respect to whether an activity has community development (CD) as its "primary purpose", the final rule adds 11 categories in § __.13 of CD loans, investments, and/or services to receive full or partial credit. The agencies will provide a publicly available illustrative and non-exhaustive list of examples of activities that qualify for CRA consideration and establish a process for eligibility consideration. The rule replaces term "assessment area" with three new terms: "retail lending assessment area," "facility-based assessment area," and "outside retail lending area." Retail lending AAs are any MSA or combined non-MSA areas of a state in which the bank originated ≥150 (originally proposed as 100) closed end home mortgage loans, or 400 small business loans, outside of its facility-based AAs. Small and intermediate banks can delineate facility-based AAs to include a partial county and are not required to delineate retail lending AAs. A Large bank's facility based AA must consist of single MSA, one or more contiguous counties within an MSA, or one or more contiguous counties within the nonmetropolitan area of a State. For all banks, any qualified CD activity is considered in the overall rating, regardless of location, although performance will be assessed in each of the bank's facility-based AAs. The rule preserves the current lending test for Small banks and the CD test for Intermediate banks without significant changes, though it includes the following structure for banks of varying sizes: (1) Large banks would be evaluated under the new Retail Lending, Retail Services and Products, CD Financing and CD Services tests. Large banks with assets of >$10 billion are additionally subject to certain data collection and reporting requirements; (2) Intermediate banks will be evaluated under the new Retail Lending test and under the current CD test or, at the bank's option, the new CD Financing test; (3) Small banks will be evaluated under the current small bank lending test or, at the bank's option, the new Retail Lending test; and (4) any size bank has the option to request to be evaluated under an approved strategic plan. The agencies will assign conclusions for each applicable performance test with respect to a bank's facility-based AAs, states, multistate MSAs, and at the institution level. For Large banks, weights will be allocated as follows: 40% Retail Lending Test, 40% CD Financing Test, 10% Retail Services and Products Test, and 10% CD Service Test. For Intermediate banks, tests will be weighted equally between the Retail Lending Test and the status quo CD test (or CD Financing Test, when selected by the bank). *Note: On 3/29/24, an interim final rule extended the effective dates for (a) facility-based AAs (§ _.16) and (b) website public file (§_.43) from 4/1/24, to 1/1/26. Separately, on 3/29/24, the District Court for the Northern District of TX granted a motion for preliminary injunction pending the resolution of a lawsuit (extending the effective date of the Final Rule's implementation by one day for each day the injunction remains in place). The injunction only expressly prevents the Agencies from enforcing the Final Rules against Plaintiffs, including the TX Bankers Association, ABA, ICBA, and Independent Bankers Association of TX. Possibly an oversight, the order entered by the court does not expressly state that it applies to Plaintiffs' members.*

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FINAL RULES AND ASSOCIATED ACTIONS:				
Annual Threshold Adjustment for CARD, HOEPA, and QM for 2024 - CFPB	Minor	88 FR 65113 9/21/23	1/1/24 ~~5/14/24~~ *Stayed per Court order, see above	CARD Act: 1) No change to the minimum interest charge threshold requiring disclosure of charge >$1.00 for applicable open-end consumer credit plans. 2) **For small card issuers* only, a final rule effective 5/14/24, increases the safe harbor amount for credit card late payment fees from $30 to $32 for initial and from $41 to $43 for subsequent violations. HOEPA: For high-cost mortgages, increased total loan amount threshold from $24,866 to $26,092, and the points and fees trigger from $1,243 to $1,305. For General QM loans, the spread threshold between APR and APOR is increased to: 1) ≥2.25% for 1st lien loans ≥$130,461; 2) ≥3.5% for 1st lien loans >$78,277 but <$130,461; 3) ≥6.5% for 1st lien loans <$78,277; 4) ≥6.5% for 1st lien loan secured by manufactured home <$130,461; 5) ≥3.5% for subordinate-lien loan ≥$78,277 and 6) ≥6.5% for subordinate-lien loan <$78,277. For all categories of QMs, the total points and fees thresholds are 1) 3% of total loan amount (TLA) for loans ≥$130,461; 2) $3,914 for loans ≥$78,277 but <$130,461; 3) 5% of TLA for loans ≥$26,092 but <$78,277; 4) $1,305 for loans ≥$16,308 but <26,092; and 5) 8% of TLA for loans <$16,308.
Rule Regarding Official Sign, False Advertising, Misrepresentations About Insured Status, and Misuse of the FDIC's Name or Logo - FDIC	Minor (Excludes CUs)	89 FR 3504 1/18/24	Effective 4/1/24 Compliance date 1/1/25	This action modernizes the rules governing use of the official FDIC sign and insured depository institutions' (IDIs) advertising to reflect how depositors do business with IDIs today, including through digital channels. Revised from the proposal, the rule does not use the term non-traditional branches, though requires that the official sign is displayed at all branches *and other premises* in which customers may transact with deposits. As proposed, (1) the rule requires that IDIs display the official sign at each applicable teller window or station, unless an IDI only offers insured deposit products on the premises, in which case the requirement may be satisfied by displaying the official sign in one or more locations visible from the teller windows or stations, in a size large enough to be legible from anywhere in that area; (2) permits use of electronic media to satisfy sign display requirements on premises; (3) requires IDIs to delineate areas where non-deposit activities take place from areas where insured deposit-taking activities occur, and requires the use of signs that differentiate insured deposits from non-deposit products across banking channels; and (4) requires a newly designed official FDIC digital sign (consists of "FDIC" with the following text: "FDIC-Insured- Backed by the full faith and credit of the U.S. Government.") to be displayed near the top of the relevant page or screen, in close proximity to the IDI's name on initial or homepages of websites or applications, landing or login pages, and pages where customers may transact with deposits. Among other things, the rule also provides for certain non-deposit signage on applicable pages within its digital deposit-taking channel and in some instances notifications when a customer accesses non-deposit products from a non-bank third party via an IDI's digital deposit-taking channel; clarifies how the new digital FDIC signage would apply to ATMs that accept deposits; discusses how current and new short form official FDIC advertising statements may be used in social media; requires P&Ps addressing compliance with Part 328 for IDIs and certain third party relationships; and address specific scenarios where consumers may be misled on depository insurance coverage.
Agency Annual Threshold Adjustments for 2024	Minor	1)88 FR 83322 2)88 FR 83311 3)88 FR 88221 4)88 FR 88223	1/1/24	REGULATORY THRESHOLDS: (1) TILA application is $69,500 (was $66,400); (2) exemption for appraisals on HPMLs is $32,400 (was $31,000); (3) HMDA asset size exemption threshold is $56 million (was $54 million); (4) "Small Creditor" threshold for purposes of the exemption under §1026.35(b)(2)(iii) to establish escrow accounts for HPMLs is $2.640 billion at 12/31/23 (was $2.537 billion), and the "Certain Insured Depository Institution" threshold for purposes of the exemption under §1026.35(b)(2)(vi) to establish escrow accounts for HPMLs is $11.835 billion at 12/31/23 (was $11.374 billion).
Annual CRA Threshold Adjustment for 2024 - FRB, FDIC and OCC	Minor (Excludes CUs)	FDIC/FRB 88 FR 87895 12/20/23 OCC 2023-40	1/1/24	"Small banks" are those with total assets less than $1.564 billion (was $1.503 billion) as of 12/31/22 or 12/31/23; "intermediate small banks" are those with total assets ≥$391 million (was $376 million) and less than $1.564 billion as of 12/31/22 or 12/31/23.

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FINAL RULES AND ASSOCIATED ACTIONS:				
Small Business Lending Data Collection under the ECOA - CFPB	Major	88 FR 35150 5/31/23 89 FR 55024 7/3/24	Effective 8/29/23 Compliance dates: ~~10/1/24,~~ ~~4/1/25,~~ ~~or 1/1/26~~ 7/18/25 1/16/26 10/18/26	Following its 2021 Proposed Rule, the CFPB issued this final rule requiring lenders to report small business loan applications and originations, including applicant demographic information and loan pricing data. The final rule includes two substantive changes from the proposal. First, it increases the reporting threshold exemption for FIs who originate "covered credit transactions" to "small businesses" in each of the two preceding calendar years from 25 to 100. Second, it adds an exclusion for HMDA reportable loans to the definition of covered transaction. Largely unchanged from the proposal, (1) a covered credit transaction is defined as one that meets Reg B's definition of "business credit" with some exclusions; and (2) a "small business" is defined as one that had ≤$5 million in gross revenue for its preceding fiscal year. A covered application is defined as an request for a covered credit transaction that is made in accordance with procedures used by an FI, however, it does not include inquiries or prequalification requests, or extension or renewal requests unless the request seeks additional credit amounts. Required data points include: unique identifier; application date, method, and recipient; credit type and purpose; amount applied for-approved-originated; action taken and date; denial reasons; pricing; census tract; gross annual revenue; NAICS; # of workers and principal owners; time in business; whether the business is a minority, women, or LGBTQI+ owned business; and ethnicity, race, and sex. The final rule reflects 20 data points although each may have multiple fields. For implementation, the rule contains "compliance date tiers." An FI must begin collecting data and otherwise complying with the final rule on: (1) 10/1/24 if it originated at least 2,500 covered originations in both 2022 and 2023; (2) on 4/1/25 if it: a) originated ≤2,500 but ≥500 covered originations in both 2022 and 2023, and b) originated at ≥100 covered originations in 2024; or (3) on 1/1/26 if it originated at ≥100 covered originations in both 2024 and 2025. The rule provides a method of estimating the originations of "covered credit transactions" for institutions that did not collect income data in 2022 or 2023. Once subject to the reporting, FIs would collect data on a calendar-year basis and report to the CFPB by June 1, of the following year. *On 10/26/23, a Texas federal district court issued a preliminary injunction enjoining the CFPB from implementing and enforcing the rule on nationwide basis against all covered entities. On 5/16/24 the SCOTUS ruled that the CFPB's funding mechanism does not violate the Appropriations Clause of the U.S. Constitution. *On 7/3/24, CFPB published an interim final rule extending the compliance dates set forth in the original final rule by 290 days to compensate for the period the rule was stayed. Comments may be submitted on or before 8/2/24.*
Payday Loans, Vehicle Title and Certain High-Cost Installment Loans (Deposit Advance Products and longer-term loans with balloon payments) - CFPB	Moderate	82 FR 54472 11/17/17 85 FR 44382 7/22/20	Effective 1/16/18 Compliance date ~~8/19/19*~~ ~~6/13/22*~~ 3/30/25	On 7/22/20 the CFPB published a final rule revoking the ATR requirements set for in the initial rule (2017). Payment provisions remain in place and unchanged. Under new 12 CFR Part 1041 covered loans include open-end and closed-end loans that are (1) short-term loans (≤45-days) and (2) longer-term balloon-payment loans (defined as payment that is twice as large as any other payment). Certain provisions apply to a third type of loan, with terms >45-days where the cost of credit exceeds 36% APR *and* have a leveraged payments mechanism where the lender can initiate transfers from the consumer's account on its own. The rule prohibits lenders from attempting to withdraw payment from a consumer's account after its second consecutive attempt has failed for insufficient funds, and also imposes new disclosure requirements. **The compliance date has been stayed several times pursuant to various court orders issued in CFCA v. CFPB. Ultimately, the SCOTUS held oral argument related to the plaintiff's claim that the CFPB's funding was unconstitutional and on 6/17/24 entered that the CFPB funding was constitutional. Following the SCOTUS decision, the CFPB published a blog stating an existing court order pausing the rule is set to expire 286 days after the SCOTUS judgment and as a result, the rule should go into effect on 3/30/25.*

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GUIDANCE & PROPOSED RULES:				
Proposed Rule to Amend Regulation V Concerning Inclusion and Use of Medical Information on Credit Reports - CFPB	Minor	Proposed Rule 89 FR 51682 6/18/24	Comments due 8/12/24	The CFPB is proposing amendments to Reg. V concerning inclusion and use of medical debt information in credit reports. As proposed, Reg. V would be amended to: (1) Remove the financial information exception which currently permits creditors to obtain and use medical-related financial information from credit reports in connection with credit eligibility determinations; and (2) Generally prohibit consumer reporting agencies (CRAs) from including medical debt information on consumer reports. As summarized, the proposal defines "medical debt information" as information pertaining to a debt owed to a person (or a person's agent or assignee) whose primary business is providing medical services, products, or devices. A creditor would not be in violation of the proposed rule if it receives and uses medical debt information in connection with credit eligibility determinations without specifically requesting medical information i.e., If a consumer lists debt owed to a hospital in response to a general question regarding a consumer's debts or expenses, the creditor can use the unsolicited medical information to an extent that is no less favorable than it would use comparable information that is not medical information.
Circular Regarding Unlawful or Unenforceable terms & conditions in Consumer financial products or services contracts - CFPB	Minor	Circular 89 FR 51955 6/21/24	6/4/24	CFPB makes the stance that inclusion of certain terms in contracts for consumer financial products or services likely violates the CFPA's prohibition on deceptive acts or practices when applicable Federal or State law renders such contractual terms, including those that purport to waive consumer rights, unlawful or unenforceable. The circular provides examples of violations that CFPB supervisory examiners have identified, including unenforceable language in consumer contracts related to the right to challenge garnishments, exercise bankruptcy protection rights, exercise error resolution rights for remittance transfers and more.
Circular Regarding Deceptive Marketing Practices About the Speed or Cost of Sending a Remittance Transfer - CFPB	Minor	Circular 89 FR 27357 4/17/24	3/27/24	In this circular, the CFPB alerts remittance transfer providers (including digital wallet providers) that they can be liable under the CFPA for deceptive marketing about remittance transfers (RTs), including in some cases, regardless of whether the provider follows the disclosure requirements found in Subpart B of Reg. E. Among other things, it may be deceptive to market: RTs as being delivered within a certain time frame, when transfers actually take longer to be made available to recipients; RTs as "no fee" or "free" when in fact the provider charges fees (such as for exchange rate spreads, currency conversion, or withdrawal charges), or; promotional fees or exchange rates for RTs without sufficiently clarifying when an offer is temporary or limited (fine print may not be sufficient-enough disclosure).
Circular Regarding Digital Comparison-shopping Tools or Lead Generators - CFPB	Minor	Circular 89 FR 17706 3/12/24	2/29/24	The CFPB reminds the industry that operators of digital comparison-shopping tools can violate the prohibition on abusive acts or practices if they distort the shopping experience by steering consumers to certain products or services based on remuneration to the operator. Similarly, lead generators can violate the prohibition on abusive practices if they steer consumers to one participating financial services provider instead of another, based on compensation received. Where consumers reasonably rely on an operator of a digital comparison-shopping tool or a lead generator to act in their interests, the operator or lead generator can take unreasonable advantage of that reliance by giving preferential treatment to their own or other products or services through steering or enhanced product placement, for financial or other benefit. The circular also provides examples of what might be deemed illegal arrangements.
Proposed Rule to Ban NSF Fees on Instantaneously Declined Transactions - CFPB	Minor	Proposed Rule 89 FR 6031 1/31/24	Comments due 3/25/24	The CFPB proposes to prohibit covered financial institutions from charging fees, such as NSF fees, when a consumer initiates certain payment transactions that are instantaneously declined, on the grounds that charging such fees would constitute an abusive practice. In the proposal, the term "covered financial institution" would have the same meaning as a "financial institution" in existing Regulation E, 12 CFR 1005.2(i). Covered payment transactions would include declined debit card purchases and ATM withdrawals, as well as some declined peer-to-peer payments. If finalized, the CFPB would add 1042 to Chapter X in Title 12 of the CFR.

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GUIDANCE & PROPOSED RULES:				
Proposed Rule to Make Overdraft Credit Subject to Regulation Z at Very Large Financial Institutions - CFPB	Major (FIs>$10B)	Proposed Rule 89 FR 13852 2/23/24	Comments due 4/1/24	The CFPB proposes to amend Regulations E and Z to update regulatory exceptions for overdraft credit provided by "very large financial institutions," which as proposed are insured depository institutions and credit unions >$10 billion in assets. Under this proposal, Reg Z would generally apply to overdraft credit provided by very large institutions unless it is provided at or below costs and losses. Covered FIs would have the choice of calculating their own costs and losses using standards set forth in the proposal or by relying on a benchmark fee set by the CFPB (amounts currently being considered are $3, $6, $7, or $14). Transfer charges imposed on asset accounts with linked overdraft lines of credit to cover what would otherwise be a negative balance would also be considered finance charges under Reg Z. If finalized as is, certain provisions of Reg Z that govern open-end credit (e.g., the account opening disclosures, periodic statements, and advertising rules) would now apply to covered overdraft credit. Additionally, covered overdraft credit would have to be placed in a credit account separate from the asset account, and there is the potential that CARD Act provisions would also apply if the credit can be accessed by a hybrid debit-credit card (i.e., the associated debit card). The proposal would also prohibit compulsory use of preauthorized electronic fund transfers for repayment of covered overdraft credit. If adopted, a final rule could take effect as early as 10/1/25.
Guidance on Managing Risks Associated with "Buy Now, Pay Later" lending - OCC	Minor (OCC-supervised banks only)	OCC Bulletin 2023-37 12/6/23	12/6/23	This Bulletin is meant to assist OCC-supervised banks offering or considering offering Buy Now, Pay Later (BNPL) loans in effectively managing associated risks. Banks that offer BNPL loans should do so in a manner that is S&S, provides fair access, supports fair treatment of consumers, and complies with applicable laws and regulations. The Bulletin's scope is specifically limited to BNPL loans that are payable in ≤4 installments and carry no finance charges (i.e., the loans carry 0% interest and no other finance charges). It discusses unique characteristics and risks of BNPL loans and provides detail of commonly anticipated components of a BNPL risk management system, addressing credit, operational, compliance, and third-party risk management. It also discusses the importance of industry-wide credit bureau reporting of BNPL loans and appears to support credit data furnishing by banks/lenders.
Notable items in the rule making agenda - CFPB	TBD	Rule Making Agenda Fall 2023 Reginfo.gov Agency Rule List	Various	Per the CFPB's Fall 2023 agenda: **Five in the final rule stage:** (1) Registry of nonbanks subject to certain agency and court orders (rule was issued on 6/3/24, with no direct regulatory burden to insured depository FIs); (2) Registry of supervised nonbanks that use form contracts to impose T&Cs that seek to limit consumer legal protections (proposal was issued on 2/1/23, with no direct regulatory burden to FIs); (3) Credit card penalty fees, rule expected any day (see proposal), (4) Property assessed clean energy funding (PACE loans) (see proposal); and; (5) interagency rulemaking to implement amendments regarding quality control standards for automated valuation models or AVMs (see proposal). **Six in the proposed rule stage:** (1) interagency rulemaking establishing data standards for the collections of information reported to each agency (NPRM expected June 2024); (2) rulemaking to define larger participants in markets for consumer payments; (3) NSF fee rules (see proposal); (4) rulemaking to simplify and streamline the mortgage servicing rules (NPRM expected Mar. 2024); (5) rulemaking on personal financial data rights (see proposal); and, amendment to Reg. Z overdraft rules (see proposal). **One in the pre-rule stage:** (1) amendments to Reg. V *(On 9/21/23, the CFPB issued a SBREFA outline of proposals under consideration; including ones to address the practices of and to clarify coverage of the FCRA to certain data brokers, what information constitutes a credit report under the FCRA, prohibition of including medical debts and related collection information on consumer reports, and more)*.

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GUIDANCE & PROPOSED RULES:				
Proposed Rule on Personal Financial Data Rights - CFPB	Moderate	Proposed Rule 88 FR 74796 10/31/23	Comments due 12/29/23	This proposed rule (PR) and request for comment is to implement personal financial data rights under CFPA of 2010. It would require data providers (includes depository and non-depository entities) to make available to consumers and authorized third parties' certain data relating to consumers' transactions and accounts in a machine-readable format; establish obligations for third parties accessing a consumer's data, including important privacy protections for that data; and provide basic standards for data access. Covered data would include historical transaction information, balances, information to initiate payment to/from a Reg E account, T&Cs, and upcoming bill information. The PR generally prohibits fees related to consumer requests or for establishing or maintaining a consumer interface. A final rule is expected in 2024 and would activate the currently dormant 12 CFR Part 1033. Compliance dates as proposed would be staggered after the final rule is published with implementation periods of 6m for Depository Institutions (DIs) ≥$500B, 1y for DIs ≥$50B but less than $500B, 30m for DIs ≥$850M but less than $10B, and 4y for DIs ≤$850M. DIs that do not have a consumer interface would not be subject to the rule.
Joint Statement on Fair Lending and Credit Opportunities for Noncitizen Borrowers Under the ECOA - CFPB and DOJ	Minor	Statement 88 FR 71845 10/18/23	10/12/23	This joint statement is to assist stakeholders in understanding the potential civil rights implications of a creditor's consideration of an individual's immigration status under the ECOA. The ECOA and Reg B do not expressly prohibit consideration of immigration status. Reg B provides that a creditor may consider immigration status or status as a permanent resident of the U.S. and any additional information that may be necessary to ascertain the creditor's rights and remedies regarding repayment, but it does not provide a safe harbor. Immigration status may broadly overlap with or, in certain circumstances, serve as a proxy for protected characteristics (such as national origin or race). Creditors should be aware that if blanket or overly broad policy(s) regarding consideration of immigration status is not "necessary to ascertain the creditor's rights and remedies regarding repayment" and results in discrimination on a prohibited basis, it violates the ECOA and Reg B.
Advisory Opinion to Address Large FIs Compliance with Consumer Requests for Account Information - CFPB	Minor	Advisory Opinion 88 FR 71279 10/16/23	10/16/23	This Advisory Opinion (AO) is the CFPB's first guidance regarding §1034(c) of the CFCA. Section 1034(c) applies to banks and credit unions >$10 billion, as well as their affiliates. With limited exceptions, §1034(c) requires that such FIs or affiliates, shall, in a timely manner provide account information and supporting documentation to the extent it is in their control or possession. The AO reminds covered FIs that imposing conditions or requirements on requests that unreasonably impedes consumers' ability to request and receive account information would be a violation. The AO reads that there is much subjectivity to what the CFPB may deem as unreasonable requirements or what is considered timely, although from a timing aspect does suggest that responses in accordance with Reg X's timing requirements for information requests would be considered "timely."
Circular regarding Adverse Action Notifications and the Proper Use of Sample Forms provided in Regulation B - CFPB	Minor	Circular 2023-03 9/19/23	9/19/23	The Bureau reminds creditors that they may not rely on the checklist of reasons provided in Reg B's sample forms to satisfy obligations under ECOA if those reasons do not specifically and accurately indicate the principal reason(s) for the adverse action. An underlying concern appears to be the intersection of fair lending/practices and technology, such as when complex algorithms involving artificial intelligence are used. Thus, if the principal reason(s) a creditor actually relies on is not accurately reflected in the checklist of reasons in the sample forms, it is the duty of the creditor, if it chooses to use the sample forms, to either modify the form or check "other" and include the appropriate explanation, so that the statement of reasons are not overly broad, vague, or otherwise fail to inform the applicant of the specific and principal reason(s) for an adverse action.

LAW/REGULATION	Impact	Rules Citation	Effective Date	Comment/Summary
GUIDANCE & PROPOSED RULES:				
Proposed Interagency Guidance on Reconsiderations of Value for Residential Real Estate Valuations – OCC, FRB, FDIC, NCUA, and CFPB	Minor	Proposed Interagency Guidance 88 FR 47071 7/21/23	Comments due 9/19/23	The agencies request comment on proposed guidance to highlight risks associated with deficient residential real estate valuations and describe how FIs may incorporate reconsiderations of value (ROV) processes and controls into established risk management functions. Deficiencies may be identified through an FI's valuation review or through consumer provided information about potential deficiencies or other information that may affect the estimated value. The proposed guidance provides examples to consider in developing risk-based ROV-related P&Ps, control systems, and complaint processes to identify, address, and mitigate the risk of deficient valuations as well as the risk of discrimination. *Note: On 2/12/24 the FFIEC published compliance and S&S examination principles related to valuation discrimination and bias in residential lending. The principles for compliance exams reiterate the applicability of traditional CMS components as they apply to mitigating risk of valuation discrimination.*
Interagency Guidance on Third-Party Relationships Risk Management – OCC, FRB, FDIC	Minor (excludes CUs)	Final Interagency Guidance 88 FR 37920 6/9/2023	6/6/23	Following their 7/19/21 Proposed Guidance the agencies finalized guidance for risk management practices of third-party relationships (TPR) that considers the level of risk, complexity, and size of the organization and the nature of the TPRs (by contract or otherwise). The guidance is to promote consistency in supervisory approaches and replace each agency's existing (now rescinded) guidance (the Board's 2013 guidance, the FDIC's 2008 guidance, and the OCC's 2013 guidance and its 2020 FAQs). As was proposed, the final guidance is based in part on the OCC's third-party risk management guidance from 2013 and incorporates elements of the OCC's 2020 FAQs. The principals set forth pertain to a lifecycle of, planning; due diligence and third-party selection; contract negotiation; ongoing monitoring; and termination. Under the section titled 'Governance,' the agencies discuss the general expectations regarding oversight and accountability, independent reviews, and documentation and reporting. **On 5/3/24, the agencies jointly released a guide titled "Third-Party Risk Management: A Guide for Community Banks" with specification that the guide is intended to be a resource for community banks to consider when managing the risk of TPRs, but is not a substitute for the June 2023 Interagency Guidance.*
Proposal to establish consumer protections in Reg Z for PACE loans - CFPB	Minor	Proposed Rule 88 FR 30388 5/11/23	Comments due 7/26/23	This proposed rule would implement EGRRCPA section 307 and amend Reg Z to address how TILA applies to Property Assessed Clean Energy (PACE) transactions. The proposed rule would clarify that Reg Z's commentary to exclusion to "credit," as defined in § 1026.2(a)(14), applies only to *involuntary* tax liens and tax assessments. The rule would also adjust content requirements for Loan Estimates and Closing Disclosures (proposed Model Forms H–24(H) and H–25(K)) applicable to PACE transactions. Although the proposal would exempt PACE transactions from HPML escrow requirements and periodic statements, it would extend ATR requirements and the liability provisions of TILA to any "PACE company," which, as proposed, means a non-natural person or a non-government unit that administers the program through which a consumer applies for or obtains a PACE transaction. A "PACE transaction," as proposed, means financing to cover the costs of home improvements that results in a tax assessment on the real property of the consumer. The CFPB also published a report highlighting several impacts that PACE loans have on borrowers, with a focus on activity in California and Florida.