



90 Day Regulatory Outlook

April 2024

The following 90-day outlook is designed to provide you with a single view of recent announcements and key regulatory dates through July 2024. Relevant BAI course updates are listed.

Color Key:

ENACTED/ANNOUNCED DATE | **EFFECTIVE DATE** | **COMMENTS DUE/ISSUED DATE** | **MANDATORY DATE**

April 1, 2024 | COMMENTS DUE

CFPB Proposes Rule to Close Bank Overdraft Loophole that Costs Americans Billions Each Year in Junk Fees

The Consumer Financial Protection Bureau (CFPB) today proposed a rule to rein in excessive overdraft fees charged by the nation's biggest financial institutions. The proposal would close an outdated loophole that exempts overdraft lending services from longstanding provisions of the Truth in Lending Act and other consumer financial protection laws. Essentially, the proposal would cap fees for banks and credit unions with more than \$10 billion in assets. Banks with assets of less than \$10 billion would be exempt. Under the proposal, large banks would be free to extend overdraft loans if they complied with longstanding lending laws, including disclosing any applicable interest rate. Alternatively, banks could charge a fee to recoup their costs at an established benchmark – as low as \$3, or at a cost they calculate, if they show their cost data. The CFPB has proposed benchmarks of \$3, \$6, \$7, or \$14 and is seeking comment on the appropriate amount.

Action Item: Depository institutions should submit comment on the proposed rule.

Course Updates: (Release Date TBD)

BAI will release new and updated courses upon finalization of the rule.



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April 1, 2024 | EFFECTIVE DATE

FDIC Approves Final Rule Regarding Deposit Insurance Simplification

The final rule simplifies deposit insurance coverage for deposits held in connection with revocable and irrevocable trusts by merging these two deposit insurance categories and applying a simpler, common calculation to determine coverage. Currently, the FDIC receives more inquiries related to deposit insurance coverage for trust deposits than all other types of deposits combined. The final rule will make the trust rules consistent and easier to understand for bankers and depositors and will facilitate prompt payment of deposit insurance by the FDIC in the event of an insured depository institution's failure. Meanwhile, the FDIC expects that the vast majority of trust depositors will experience no change in the coverage for their deposits when the final rule takes effect.

Action Item: Banks insured by the FDIC should update their deposit insurance procedures accordingly, and provide updated literature to trust account customers.

Course Updates: (Release Date February 2, 2024)

30328B – Federally Insured Accounts

April 6, 2024 | EFFECTIVE DATE

SEC Adopts Rules to Include Certain Significant Market Participants as "Dealers" or "Government Securities Dealers"

The Rules Are Intended to Require Additional Market Participants, Including Certain Proprietary Trading Firms, Private Funds and Investment Advisers, to Register with the SEC as Dealers or Government Securities Dealers. The Final Rules and related adopting release also provided additional guidance regarding some of the key terms and concepts, including the "own account" definition. Under the final rules, any person that engages in activities as described in the rules is a "dealer" or "government securities dealer" and, absent an exception or exemption, required to: register with the Commission under Section 15(a) or Section 15C, as applicable; become a member of an SRO; and comply with federal securities laws and regulatory obligations and applicable SRO and Treasury rules and requirements.

Action Item: Organizations that participate in the activities described in the final rule must be properly registered and comply with the requirements of the SEC in connection with certain liquidity-providing roles.



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April 11, 2024 | EFFECTIVE DATE

FTC Implements New Protections for Businesses Against Telemarketing Fraud and Affirms Protections Against AI-enabled Scam Calls

The Federal Trade Commission today announced a final rule extending telemarketing fraud protections to businesses and updating the rule's recordkeeping requirements in light of developments in technology and the marketplace. The Commission also announced a proposed rule that would provide the agency with significant new tools to combat tech support scams.

Action Item: Institutions should review current telemarketing and robocall policies and verify they are in compliance with the rule.

April 13, 2024 | COMMENTS DUE

FinCEN Proposes Rule to Combat Money Laundering and Promote Transparency in Residential Real Estate

The proposed rule would require certain professionals involved in real estate closings and settlements to report information to FinCEN about non-financed transfers of residential real estate to legal entities or trusts. FinCEN's proposal is tailored to target residential real estate transfers considered to be high-risk for money laundering, while minimizing potential business burden, and it would not require reporting of transfers made to individuals.

Action Item: Real estate professionals should submit comment on the proposed rule.

Course Updates: (Release Date TBD)

BAI will release new and updated courses upon finalization of the rule.

April 14, 2024 | COMMENTS DUE

FinCEN Proposes Rule to Combat Illicit Finance and National Security Threats in Investment Adviser Sector

Today, the U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) issued a Notice of Proposed Rulemaking (NPRM) to keep criminals and foreign adversaries from exploiting the U.S. financial system and assets through investment advisers. This proposed rule, which complements Treasury's other recent actions to combat the illicit finance risks from anonymous companies and all-cash real estate transactions, will add further transparency to the U.S. financial system and help assist law enforcement in identifying illicit proceeds entering the U.S. economy.

Action Item: Financial advisors should submit comment on the proposed rule.

Course Updates: (Release Date TBD)

BAI will release new and updated courses upon finalization of the rule.



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April 20, 2024 | COMMENTS DUE

FTC Proposes New Protections to Combat AI Impersonation of Individuals

The Federal Trade Commission is seeking public comment on a supplemental notice of proposed rulemaking that would prohibit the impersonation of individuals. The proposed rule changes would extend protections of the new rule on government and business impersonation that is being finalized by the Commission today.

Action Item: Financial institutions should submit comment on the proposed rule.

April 27, 2024 | EFFECTIVE DATE

FTC Amends Safeguards Rule to Require Non-Banking Financial Institutions to Report Data Security Breaches

The Federal Trade Commission has approved an amendment to the Safeguards Rule that would require non-banking institutions to report certain data breaches and other security events to the agency. The FTC's Safeguards Rule requires non-banking financial institutions, such as mortgage brokers, motor vehicle dealers, and payday lenders, to develop, implement, and maintain a comprehensive security program to keep their customers' information safe. The amendment requires financial institutions to notify the FTC as soon as possible, and no later than 30 days after discovery, of a security breach involving the information of at least 500 consumers. Such an event requires notification if unencrypted customer information has been acquired without the authorization of the individual to which the information pertains. The notice to the FTC must include certain information about the event, such as the number of consumers affected or potentially affected.

Action Item: Nonbank financial institutions should review the amendment, and update policies, procedures, and training to comply with the new requirements for communication of data breaches of a certain size.

Course Updates: (Release Date March 26, 2024)

4105N – Cybersecurity Incident Notification Requirements

30190B / 30190C / 30190M / 30190N - Understanding and Implementing FTC Safeguards Rule Compliance



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May 5, 2024 | EFFECTIVE DATE

CFPB Bans Excessive Credit Card Late Fees, Lowers Typical Fee from \$32 to \$8

The Consumer Financial Protection Bureau (CFPB) finalized a rule today to cut excessive credit card late fees by closing a loophole exploited by large card issuers. It lowers the amount an issuer can charge for late fees to \$8, however exceptions are permissible for large issuers in situations where they can prove the higher fee is necessary to cover their actual collection costs. It also ends the abuse of the automatic annual inflation adjustment. The CFPB's final rule applies to the largest credit card issuers, those with more than 1 million open accounts.

Action Item: Credit card issuers with more than 1 million open accounts should update policies, procedures, processes, and disclosures to comply with the final rule.

May 10, 2024 | EFFECTIVE DATE

SEC Adopts Amendments to Enhance Disclosure of Order Execution Information

The Securities and Exchange Commission today adopted rule amendments that update the disclosure required under Rule 605 of Regulation NMS for order executions in national market system stocks (NMS stocks), which are stocks listed on a national securities exchange. Rule 605 was adopted in 2000 to help the public compare and evaluate execution quality at different market centers.

Action Item: Publicly traded companies should review the rule and update execution quality report policies accordingly.

May 10, 2024 | EFFECTIVE DATE

SEC Adopts Rules to Enhance and Standardize Climate-Related Disclosures for Investors

The Securities and Exchange Commission today adopted rules to enhance and standardize climate-related disclosures by public companies and in public offerings. The final rules reflect the Commission's efforts to respond to investors' demand for more consistent, comparable, and reliable information about the financial effects of climate-related risks on a registrant's operations and how it manages those risks while balancing concerns about mitigating the associated costs of the rules.

Action Item: Publicly traded companies should update investor disclosure policies accordingly.



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May 12, 2024 | COMMENTS DUE

Federal Reserve Extends the Comment Period on Interchange Fee Proposal

Interchange fees are paid by merchants and received by debit card issuers for each debit card transaction. In October 2023, the Board requested comment on a proposal to lower the maximum interchange fee that a large debit card issuer can receive for a debit card transaction. The proposal would also establish a regular process for updating the maximum amount every other year going forward. By law, the Board is required to establish standards for assessing whether an interchange fee received by a large debit card issuer for processing a debit card transaction is reasonable and proportional to certain issuer costs.

Action Item: Debit card issuers should submit comment on the proposed rule.

Course Updates: (Release Date TBD)

30212B / 30212C / 30212N – Reg II: How Interchange Fees Affect Your Institution

May 12, 2024 | COMMENTS DUE

Federal Bank Regulatory Agencies Seek Comment on Interagency Effort to Reduce Regulatory Burden

The federal bank regulatory agencies today published their first of a series of requests for comment to reduce regulatory burden. The Economic Growth and Regulatory Paperwork Reduction Act of 1996 requires the Federal Financial Institutions Examination Council and federal bank regulatory agencies to review their regulations every 10 years to identify any outdated or otherwise unnecessary regulatory requirements for their supervised institutions.

Action Item: Financial institutions should submit comment to their federal regulators.

May 24, 2024 | COMMENTS DUE

FDIC Seeks Public Comment on Proposed Revisions to its Statement of Policy on Bank Merger Transactions

The revised SOP reflects legislative and other developments that have occurred since it was last amended in 2008, including the establishment of the statutory factor regarding the risk to the stability of the United States banking or financial system. The revised SOP is principles based; describes the types of applications subject to FDIC approval; addresses each statutory factor separately; and highlights other relevant matters and considerations, such as related statutes pertaining to interstate mergers, and applications from non-banks or banks that are not traditional community banks. Further, the revised SOP reflects consideration of comment letters received in response to the FDIC's March 2022 Request for Information and Comment on Rules, Regulations, Guidance, and Statements of Policy Regarding Bank Merger Transactions.

Action Item: Banks regulated by the FDIC should submit comment on the proposed SOP.



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June 1, 2024 | COMMENTS DUE

FinCEN Seeks Comments on Customer Identification Program Requirement

The U.S. Department of the Treasury's Financial Crimes Enforcement Network (FinCEN) is issuing a request for information (RFI) related to existing requirements for banks under the Customer Identification Program (CIP) Rule to collect a taxpayer identification number (TIN) from a customer prior to opening an account. Generally, for a customer who is an individual and a U.S. person, banks are required to collect a full Social Security number (SSN) from a customer. The RFI is being issued in consultation with staff at the Office of the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the National Credit Union Administration, and the Board of Governors of the Federal Reserve System.

Action Item: Financial institutions should submit comment to FinCEN.

Course Updates: (Release Date TBD)

4000B / 4000C / 4000M / 4000N – CIP: CDD and Beneficial Ownership
30323B / 30323C / 30323M / 30323N – CIP Procedures and Protections
30501B / 30501C / 30501M / 30501N – BSA and AML: Comprehensive
30502B / 30502C / 30502M / 30502N – BSA and AML: Essentials
31104B / 31104C / 31104N – Frontline: CIP and FCRA for Opening Deposit Accounts
31136B / 31136C / 31136N – Frontline: BSA and AML

June 9, 2024 | EFFECTIVE DATE

Federal Reserve Board announces final rule that updates risk management requirements for certain systemically important financial market utilities (FMUs) supervised by the Board

The final updates provide additional clarity and specificity to existing requirements in four key areas of operational risk management: incident management and notification; business continuity management and planning; third-party risk management; and review and testing of operational risk management measures. For example, the updates explicitly require FMUs to establish an incident management framework and emphasize the need for FMUs to continue to advance their cyber resilience capabilities.

Action Item: Systematically important financial market utilities should incorporate the final rule's requirements into institutional risk management policies and procedures.



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June 30, 2024 | ANNOUNCED DATE

Federal judge delays Section 1071 compliance dates; temporary relief applies only to ABA, TBA members

A federal judge in Texas issued an order blocking enforcement of the Consumer Financial Protection Bureau's Section 1071 final rule while the Supreme Court hears a challenge to the constitutionality of the CFPB's funding structure. While the judge granted ABA and TBA's request for an injunction, the judge did not accept ABA's and TBA's request for the injunction to apply to all lenders covered by the rule but chose to provide relief only to TBA and ABA member banks across the country. The relief applies while the Supreme Court hears the constitutional challenge to the CFPB in *CFPB v. Community Financial Services Association of America*, which is scheduled to be argued in October and whose decision could be released any time before the end of June 2024, at which point new compliance deadlines would be issued for ABA and TBA members. "Defendants are ordered to extend Plaintiffs and their members' deadlines for compliance with the requirements of the Final Rule to compensate for the period stayed," the judge's order said. The ruling would thus allow ABA and TBA members to limit Section 1071 implementation costs until the question of the CFPB's constitutionality is resolved.

Action Item: Members of the ABA and TBA should continue to understand the requirements under Section 1071, but pay be aware of the Supreme Court's decision on the lawsuit, which is expected to be release in the middle of 2024.

All other applicable financial institutions should continue to implement the requirements and plan on fully complying by the applicable effective date.

Course Updates: (Release Date TBD)

30260B / 30260C / 30260N – The Small Business Lending Rule



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September 1, 2024 | MANDATORY DATE

SEC Adopts Rules for the Registration and Regulation of Security-Based Swap Execution Facilities

The Securities and Exchange Commission today adopted new Regulation SE under the Securities Exchange Act of 1934 to create a regime for the registration and regulation of security-based swap execution facilities (SBSEFs). The new regulatory framework was required under Title VII of the Dodd-Frank Wall Street Reform and Consumer Protection Act relating to the over-the-counter derivatives market. The adoption addresses the Exchange Act's trade execution requirement for security-based swaps and the cross-border application of that requirement, implements Section 765 of the Dodd-Frank Act to mitigate conflicts of interest at SBSEFs and national securities exchanges that trade security-based swaps, and promotes consistency between Regulation SE and existing rules under the Exchange Act. In adopting Regulation SE, the Commission has sought to harmonize as closely as practicable with parallel rules of the CFTC that govern swap execution facilities (SEFs) and swap execution generally. The adopted rules will become effective 60 days following the date of publication in the Federal Register. Any entity that meets the definition of SBSEF may file an application to register with the Commission on Form SBSEF at any time after the effective date, and would need to do so within 180 days of the effective date and have its application on Form SBSEF be complete within 240 days of the effective date in order to continue to operate as an SBSEF while its application is pending.

Action Item: Any entity that meets the definition of SBSEF may file an application to register with the Commission on Form SBSEF at any time after the effective date, and would need to do so within 180 days of the effective date and have its application on Form SBSEF be complete within 240 days of the effective date in order to continue to operate as an SBSEF while its application is pending.

September 30, 2024 | MANDATORY DATE

SEC Adopts Amendments to Rules Governing Beneficial Ownership Reporting

The Securities and Exchange Commission adopted rule amendments governing beneficial ownership reporting under Sections 13(d) and 13(g) of the Securities Exchange Act of 1934. The amendments update Regulation 13D-G to require market participants to provide more timely information on their positions to meet the needs of investors in today's financial markets.

Action Item: Publicly traded companies should familiarize themselves with the amendments, including the content and timing disclosure requirements.



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November 16, 2024 | EFFECTIVE DATE

SEC Adopts Rules to Improve Clearing Agency Governance and Mitigate Conflicts of Interest

The Securities and Exchange Commission has adopted new rules to improve the governance of all registered clearing agencies by reducing the likelihood that conflicts of interest may influence their boards of directors or equivalent governing bodies. The new rules establish governance requirements regarding board composition, independent directors, nominating committees, and risk management committees. The rules also require new policies and procedures regarding conflicts of interest, management of risks from relationships with service providers for core services, and a board obligation to consider stakeholder viewpoints. The rules are being adopted pursuant to, among other statutory provisions, Section 765 of the Dodd-Frank Act, which specifically directs the Commission to adopt rules to mitigate conflicts of interest for security-based swap clearing agencies. The rules improve the governance of registered clearing agencies by identifying certain responsibilities of the board, increasing transparency into board governance, and, more generally, improving the alignment of incentives among owners and participants of a registered clearing agency. In support of these objectives, the rules establish new requirements for board and committee composition, independent directors, management of conflicts of interest, and board oversight.

Action Item: All registered clearing agencies must develop policies and procedures to comply with the rules. The policies also need to address the new governance requirements regarding board composition, independent directors, nominating committees, and risk management committees.

January 1, 2025 | EFFECTIVE DATE

FCA approves final rule on cyber risk management to enhance Farm Credit System security and spur innovation

The Farm Credit Administration board has approved a final rule on cyber risk management. The rule requires each System institution to develop and implement a comprehensive, written cyber risk management program.

Action Item: Farm credit institutions should review the final rule, and update policies to comply with the changes by the effective date. Institutions should also provide applicable training closer to the effective date.



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March 31, 2025 | MANDATORY DATE

SEC Adopts Reforms Relating to Investment Advisers Operating Exclusively Through the Internet

The Securities and Exchange Commission today adopted amendments to the rule permitting certain internet investment advisers to register with the Commission (the "internet adviser exemption"). The amendments will require an investment adviser relying on the internet adviser exemption to have at all times an operational interactive website through which the adviser provides digital investment advisory services on an ongoing basis to more than one client. The amendments will also eliminate the current rule's de minimis exception by requiring an internet investment adviser to provide advice to all of its clients exclusively through an operational interactive website and to make certain corresponding changes to Form ADV.

Action Item: Investment advisors who fall under the definition of an "internet investment advisor" must comply with the rule's requirements by March 31, 2025.

January 1, 2026 | MANDATORY DATE

Community Reinvestment Act: Interagency Final Rulemaking to Implement the CRA

To promote clarity and consistency, the agencies extended the applicability date of the facility-based assessment areas and public file provisions from April 1, 2024, to January 1, 2026. Therefore, banks will not have to make changes to their assessment areas or their public files as a result of the 2023 CRA final rule until January 1, 2026. This extension aligns these provisions with other substantive parts of the 2023 CRA final rule that are applicable on January 1, 2026. For example, all provisions about where banks are evaluated will now apply on the same date. Comments on the extended applicability date must be received 45 days after the rule is published in the Federal Register.

Action Item: All banks should review the final rule and update policies, procedures, and processes to comply with the new rules according to the applicable effective dates. Also, they should provide training to all applicable staff.

Course Updates: (Release Date February 29, 2024)

- 30405B – Community Reinvestment Act (CRA): Essentials
- 30406B – Community Reinvestment Act (CRA): Comprehensive
- 31608B – Executive Leadership: Community Responsibility
- 31708B – Compliance Officer: CRA Examination Management