



90 Day Regulatory Outlook

March 2023

The following 90-day outlook is designed to provide you with a single view of recent announcements and key regulatory dates through May 2023. Relevant BAI course updates are listed.

Color Key:

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

March 17, 2023 | EFFECTIVE DATE

Phase 2 of Micro-Entries Rule is Effective March 17

The Micro-Entry Rule was adopted in early 2022. Phase 1 has been in effect since Sept. 16, 2022. It defined Micro-Entries as ACH credits of less than \$1, and any offsetting ACH debits, used for account verification. Additionally, it required the use of the "ACCTVERIFY" description. Starting March 17, 2023, Originators of Micro-Entries will have to use commercially reasonable fraud detection.

Action Item: Depository institutions that originate ACH transactions should review policies and procedures for using micro-entries and ensure fraud detection is incorporated into said policies.

March 20, 2023 | COMMENTS DUE

CFPB Proposes Rule to Establish Public Registry of Terms and Conditions in Form Contracts That Claim to Waive or Limit Consumer Rights and Protections

Today, the Consumer Financial Protection Bureau (CFPB) proposed a rule to establish a public registry of supervised nonbanks' terms and conditions in "take it or leave it" form contracts that claim to waive or limit consumer rights and protections, like bankruptcy rights, liability amounts, or complaint rights. In some cases, terms and conditions in non-negotiable form contracts mislead consumers into believing the terms or conditions are legally enforceable. Under the proposed rule, nonbanks subject to the CFPB's supervisory jurisdiction would need to submit information on terms and conditions in form contracts they use that seek to waive or limit individuals' rights and other legal protections. That information would be posted in a registry that will be open to the public, including to other consumer financial protection enforcers.

Action Item: Nonbanks should submit their comments to the CFPB.



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March 24, 2023 | COMMENTS DUE

HUD Announces New Proposed "Affirmatively Furthering Fair Housing" Rule

This proposed rule implements the Fair Housing Act's affirmatively furthering fair housing mandate, which directs the government to promote fair housing choice, eliminate disparities in housing, and foster inclusive communities. While building avenues for greater accountability, this proposed rule streamlines the required fair housing analysis for local communities, states, and public housing agencies and requires them to set ambitious goals to address fair housing issues facing their communities, among other landmark changes.

Action Item: Institutions that originate mortgage loans should submit their comments to HUD.

April 3, 2023 | COMMENTS DUE

CFPB Proposes Rule to Rein in Excessive Credit Card Late Fees

Today, the Consumer Financial Protection Bureau (CFPB) proposed a rule to curb excessive credit card late fees that cost American families about \$12 billion each year. Major credit card issuers continue to profit off late fees that are protected by an expansive immunity provision. Credit card companies have also relied on this provision to hike fees with inflation, even if they face no additional collection costs. The proposed rule would help ensure that over the top late fee amounts are illegal. Based on the CFPB's estimates, the proposal could reduce late fees by as much as \$9 billion per year.

Action Item: Credit card issuers should submit comments to the CFPB.

April 7, 2023 | COMMENTS DUE

FDIC Extends Comment Period for Proposed Changes to Regulation Regarding the FDIC Official Sign

The Federal Deposit Insurance Corporation (FDIC) today announced a 45-day extension to the public comment period for proposed changes to its regulations relating to the FDIC's official sign, the FDIC's official advertising statement, misrepresentations of deposit insurance coverage, and misuse of the FDIC's name or logo. Comments must be received by the FDIC no later than April 7, 2023.

Action Item: Banks should submit comments to the FDIC.



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April 17, 2023 | COMMENTS DUE

FHFA Requests Input on Enterprise Single-Family Social Bond Program

Currently, each Enterprise issues labeled multifamily social bonds—neither issues labeled single-family social bonds. This RFI will help FHFA understand the opportunities and potential risks associated with the Enterprises issuing single-family social bonds, under the framework of Environmental, Social, and Governance (ESG) securities. FHFA also seeks input in defining the criteria and appropriate impact measures for Enterprise-labeled single-family social bonds.

Action Item: Mortgage brokers and securities dealers should submit comments to the FHFA.

April 24, 2023 | COMMENTS DUE

CFPB Seeks Public Input on Consumer Credit Card Market

The Consumer Financial Protection Bureau (CFPB) issued a request for information today seeking public feedback on how the consumer credit market is functioning as part of a biennial review of the industry. The CFPB is seeking more and current information on various aspects of the consumer experience with credit cards. Congress enacted the Credit Card Accountability Responsibility and Disclosure Act of 2009 (CARD Act) to establish fair and transparent practices related to the extension of credit in the credit card market. The CARD Act mandates the CFPB to conduct a review of the credit card industry every two years and report to Congress.

Action Item: Credit card issuers should submit their comments on the credit card market to the CFPB.

June 9, 2023 | EFFECTIVE DATE

FTC Extends Deadline by Six Months for Compliance with Some Changes to Financial Data Security Rule

The Federal Trade Commission today announced it is extending by six months the deadline for companies to comply with some of the changes the agency implemented to strengthen the data security safeguards financial institutions must put in place to protect their customers' personal information. The deadline for complying with some of the updated requirements of the Safeguards Rule is now June 9, 2023.

Action Item: Financial institutions that offer consumer products should continue to implement data security policies for complying with the Safeguards Rule.



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June 30, 2023 | EFFECTIVE DATE

Federal Reserve Adopts Rule Implementing Adjustable Interest Rate (LIBOR) Act

The Federal Reserve Board on Friday adopted a final rule that implements the Adjustable Interest Rate (LIBOR) Act by identifying benchmark rates based on SOFR (Secured Overnight Financing Rate) that will replace LIBOR in certain financial contracts after June 30, 2023. The final rule is substantially similar to the proposal with certain clarifying changes made in response to comments.

Action Item: Institutions that utilize LIBOR in financial contracts should identify financial contracts that utilize LIBOR and modify them to reflect the new SOFR benchmark.

July 1, 2023 | EFFECTIVE DATE

Federal Reserve Board finalizes updates to the Board's rule concerning debit card transactions

The Federal Reserve Board on Monday finalized updates to the Board's rule concerning debit card transactions. Pursuant to statute, the updates specify that debit card issuers should enable at least two payment card networks to process all debit card transactions, including "card-not-present" transactions, such as online payments. The final rule is substantially similar to the proposal issued last year.

Course Updates: (Release Date November 22, 2022)

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

July 1, 2023 | EFFECTIVE DATE

Attorney General Becerra Announces Approval of Additional Regulations That Empower Data Privacy Under the California Consumer Privacy Act

California Attorney General Xavier Becerra today announced additional regulations approved by the Office of Administrative Law that advance protections for Californians seeking to control the sale of their personal information. The California Consumer Privacy Act (CCPA) gives consumers new tools and rights for protecting their data privacy. These newly-approved rules strengthen the language of the CCPA regulations approved by OAL in August 2020, including protecting consumers from unlawful business practices that may be deceptive or misleading.

Course Updates: (Release Date TBD)

BAI will release new courseware closer to the effective date of the rule.



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July 1, 2023 | EFFECTIVE DATE

SEC Adopts Rules to Enhance Proxy Voting Disclosure by Registered Investment Funds and Require Disclosure of "Say-on-Pay" Votes for Institutional Investment Managers

The Securities and Exchange Commission today adopted amendments to Form N-PX to enhance the information mutual funds, exchange-traded funds, and certain other registered funds report about their proxy votes. The amendments will make these funds' proxy voting records more usable and easier to analyze, improving investors' ability to monitor how their funds vote and compare different funds' voting records. The rulemaking will also newly require institutional investment managers to disclose how they voted on executive compensation, or so-called "say-on-pay" matters, which fulfills one of the remaining rulemaking mandates under the Dodd-Frank Wall Street Reform and Consumer Protection Act.

Action Item: Institutional investment managers that offer Institutional Investment Manager-mutual funds, exchange-traded funds, and certain other registered funds should implement the new voter proxy records.

September 1, 2023 | EFFECTIVE DATE

NCUA Board Approves Final Rule on Cyber Incident Reporting Requirements

Under the final rule, federally insured credit unions are required to report a cyber incident that leads to a substantial loss of confidentiality, integrity, or availability of a network or member information system as a result of the exposure of sensitive data, disruption of vital member services, or that has a serious impact on the safety and resiliency of operational systems and processes. Additionally, cyberattacks that disrupt a credit union's business operations, vital member services, or a member information system must be reported to the NCUA within 72 hours of a credit union's reasonable belief that it has experienced a cyberattack.

Action Item: Federally insured credit unions should update cybersecurity policies to reflect the new reporting requirements and train the relevant personnel.

Course Updates: (Release Date April 4, 2023)

4105C – Cybersecurity Incident Notification Requirements



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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.

Course Updates: (Release Date TBD)

30328B / 30328C – Federally Insured Accounts