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Regulatory Updates – 4th Quarter 2022

AGENCY	DATE ISSUED	SUMMARY	BUSINESS UNITS AFFECTED	EFFECTIVE DATE
FDIC	1/21/2022 5/18/2022	**Final Rulemaking on Simplification of Deposit Insurance Rules for Trust and Mortgage Servicing Accounts** The Federal Deposit Insurance Corporation (FDIC) has published a final rule to amend the deposit insurance regulations for trust accounts and mortgage servicing accounts. The changes are intended to make the deposit insurance rules easier to understand for depositors and bankers, facilitate more timely insurance determinations for trust accounts in the event of a bank failure, and enhance consistency of insurance coverage for mortgage servicing account deposits. The final rule will take effect on April 1, 2024, providing depositors and insured depository institutions more than two years to prepare for the changes in coverage. On 5/18/2022, the FDIC released a Small Entity Compliance Guide on the rule.	Retail	4/1/2024
CFPB	1/28/2022	**CFPB Updates the Rural and Underserved Areas and Counties List and Tool for 2022** The Bureau has updated the Rural and Underserved Areas and Counties lists published on its website to include the lists for areas determined to be "rural or underserved" and counties determined to be "rural" in 2021 for purposes of applying certain regulatory provisions in 2022. The Bureau has also updated the rural or underserved areas website tool with areas determined to be "rural" or "underserved" in 2021 for purposes of applying certain regulatory provisions in 2022.	Lending	1/1/2022
Joint Guidance	2/22/2022	**Interagency Statement on Special Purpose Credit Programs Under the Equal Credit Opportunity Act and Regulation B** The Board of Governors of the Federal Reserve System (FRB), the Federal Deposit Insurance Corporation (FDIC), the National Credit Union Administration (NCUA), the Office of the Comptroller of the Currency (OCC), the Consumer Financial Protection Bureau (CFPB or Bureau), the Department of Housing and Urban Development	Lending	2/22/2022

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		(HUD), the Department of Justice (DOJ), and the Federal Housing Finance Agency (hereafter, the agencies) are issuing an interagency statement to remind creditors of the ability under the Equal Credit Opportunity Act (ECOA) and Regulation B to establish special purpose credit programs to meet the credit needs of specified classes of persons. Many financial institutions have publicly committed billions of dollars to better meet the needs of underserved communities, and the statement calls attention to the special purpose credit options under ECOA and Regulation B.		
OCC	2/22/2022	**Community Reinvestment Act: Frequently Asked Questions Regarding the Final Rule to Rescind the OCC's June 2020 CRA Rule** The Office of the Comptroller of the Currency (OCC) today issued responses to frequently asked questions (FAQ) about the December 2021 final rule1 to rescind the OCC's Community Reinvestment Act (CRA) rule issued on June 5, 2020 (June 2020 CRA rule).2 The December 2021 CRA final rule, effective January 1, 2022, replaced the June 2020 CRA rule with provisions largely based on the rules adopted jointly by the OCC, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation in 1995, as revised. This bulletin rescinds OCC Bulletin 2021-50, "Community Reinvestment Act: Frequently Asked Questions Regarding Notice of Proposed Rulemaking to Rescind the OCC's June 2020 CRA Rule."	Lending	1/01/2022
CFPB	2/23/2022	**Factsheet for calculating prepaid interest under the price-based General QM APR calculation rule for certain ARMs and step-rate loans** On February 23, 2022, the Bureau released a factsheet on the interest rate that is used for calculating prepaid interest under the price-based General QM APR calculation rule for certain ARMs and step-rate loans.	Lending	2/23/2022
CFPB	3/16/2022	**CFPB Targets Unfair Discrimination in Consumer Finance** Today the Consumer Financial Protection Bureau (CFPB) announced changes to its supervisory operations to better protect families and communities from illegal discrimination, including in situations where fair lending laws may not apply. In the course of examining banks and other companies' compliance with consumer protection rules, the CFPB will scrutinize discriminatory conduct that violates the federal prohibition against unfair practices. The CFPB will closely examine financial institutions' decision-making in advertising, pricing, and other areas to ensure that companies are appropriately testing for and eliminating illegal discrimination.	Lending	3/16/2022

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CFPB	3/22/2022	**Bulletin 2022-05: Unfair and Deceptive Acts or Practices That Impede Consumer Reviews** Reviews of products and services help to promote fair, transparent, and competitive markets. When firms frustrate the ability of consumers to post honest reviews of products and services that they use, they may be engaged in conduct prohibited by the Consumer Financial Protection Act (CFPA). The Consumer Financial Protection Bureau (Bureau) is issuing this bulletin to remind regulated entities of the CFPA's requirements and explain how the Bureau intends to exercise its enforcement and supervisory authorities on this issue.	Lending Retail	3/22/2022
CFPB	5/09/2022	**Revocations or Unfavorable Changes to the Terms of Existing Credit Arrangements** The Consumer Financial Protection Bureau (CFPB) is issuing this advisory opinion to affirm that the Equal Credit Opportunity Act and Regulation B protect not only those actively seeking credit but also those who sought and have received credit.	Lending	5/09/2022
Joint Guidance	5/11/2022	**Loans in Areas Having Special Flood Hazards; Interagency Questions and Answers Regarding Flood Insurance** The OCC, Board, FDIC, FCA, and NCUA (collectively, the Agencies) are reorganizing, revising, and expanding the Interagency Questions and Answers Regarding Flood Insurance. This revised guidance will assist lenders in meeting their responsibilities under Federal flood insurance law and increase public understanding of the Agencies' respective flood insurance regulations. Significant topics addressed by the revisions include guidance related to major amendments to the flood insurance laws with regard to the escrow of flood insurance premiums, the detached structure exemption, force placement procedures, and the acceptance of flood insurance policies issued by private insurers. With this issuance, the Agencies are consolidating the Questions and Answers proposed by the Agencies in July 2020 and the Questions and Answers proposed by the Agencies in March 2021 into one set of Interagency Questions and Answers Regarding Flood Insurance. Published in the Federal Register on May 31, 2022.	Lending	5/11/2022

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FDIC	5/17/2022	**FDIC Issues Final Rule Relating to False Advertising, Misrepresentations About Insured Status, and Misuse of the FDIC's Name or Logo** On May 17, 2022, the Board of Directors of the Federal Deposit Insurance Corporation (FDIC) approved a final rule implementing section 18(a)(4) of the Federal Deposit Insurance Act (Section 18(a)(4)), which prohibits any person from: making false or misleading representations about deposit insurance, using the FDIC's name or logo in a manner that would imply that an uninsured financial product is insured or guaranteed by the FDIC, or knowingly misrepresenting the extent and manner of deposit insurance. The final rule describes the process the FDIC will use to exercise its authority to enforce Section 18(a)(4), as well as the standards that the FDIC will use to evaluate conduct that may violate the statute. Additionally, the CFPB issued Consumer Financial Protection Circular 2022-02 further explaining using the FDIC name or logo when not insured is considered a deceptive act or practice.	Retail	5/17/2022
CFPB	5/26/2022	**Adverse action notification requirements in connection with credit decisions based on complex algorithms.** On May 26, 2022, the Consumer Financial Protection Bureau (CFPB) confirmed that federal anti-discrimination law requires companies to explain to applicants the specific reasons for denying an application for credit or taking other adverse actions, even if the creditor is relying on credit models using complex algorithms. The CFPB published a Consumer Financial Protection Circular to remind the public, including those responsible for enforcing federal consumer financial protection law, of creditors' adverse action notice requirements under the Equal Credit Opportunity Act (ECOA). Consumer Financial Protection Circular 2022-03 states: • Federal consumer financial protection laws and adverse action requirements should be enforced regardless of the technology used by creditors. For example, ECOA does not permit creditors to use technology that prevents them from providing specific and accurate reasons for adverse actions. Creditors' use of complex algorithms should not limit enforcement of ECOA or other federal consumer financial protection laws. • Creditors cannot justify noncompliance with ECOA based on the mere fact that the technology they use to evaluate credit applications is too complicated, too opaque in its decision-making, or too new. Creditors who use complex algorithms—including artificial intelligence or machine learning technologies—to engage in credit decisions must still provide a notice that discloses the specific, principal reasons for taking adverse actions. There is no exception for violating the law because a creditor is using technology that has not been adequately designed, tested, or understood.	Lending	5/26/2022

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FinCEN	6/15/2022	**<u>FinCEN Issues Advisory on Elder Financial Exploitation</u>** The Financial Crimes Enforcement Network (FinCEN) is issuing an advisory to alert financial institutions to the rising trend of elder financial exploitation (EFE). EFE involves the illegal or improper use of an older adult's funds, property, or assets, and is often perpetrated either through theft or scams. The advisory highlights new EFE typologies and red flags since FinCEN issued its first advisory on the issue in 2011.	All	6/15/2022
FinCEN	6/22/2022	**<u>FinCEN Statement on Bank Secrecy Act Due Diligence for Independent ATM Owners or Operators</u>** The Financial Crimes Enforcement Network (FinCEN) today issued a statement to provide clarity to banks on how to apply a risk-based approach to conducting customer due diligence (CDD) on independent Automated Teller Machine (ATM) owners or operators, consistent with the requirements set out in FinCEN's 2016 CDD Rule. Some independent ATM owners and operators have reported difficulty in obtaining and maintaining access to banking services, which jeopardizes the important financial services they provide, including to persons in underserved markets. FinCEN is issuing this statement to remind banks that not all independent ATM owner or operator customers pose the same level of money laundering, terrorist financing, or other illicit financial activity risk, and not all independent ATM owner or operator customers are automatically higher risk. Further, banks that operate in compliance with applicable Bank Secrecy Act/anti-money laundering regulatory requirements and reasonably manage and mitigate risks related to the unique characteristics of customer relationships are neither prohibited nor discouraged from providing banking services to independent ATM owner or operator customers, including those that are Independent Sales Organizations.	Retail	6/22/2022
CFPB Interpretive Rule	6/29/22	**<u>The Fair Credit Reporting Act's Limited Preemption of State Laws</u>** States play an important role in the regulation of consumer reporting. State laws that are not "inconsistent" with the Fair Credit Reporting Act (FCRA) are generally not preempted by that statute. The FCRA also expressly preempts certain categories of State laws. This interpretive rule clarifies that FCRA's express preemption provisions have a narrow and targeted scope. States therefore retain substantial flexibility to pass laws involving consumer reporting to reflect emerging problems affecting their local economies and citizens. For example, if a State law were to forbid consumer reporting agencies from including information about medical debt, evictions, arrest records, or rental arrears in a consumer report (or from including such information for a certain period of time), such a law would generally not be preempted. Likewise, if a State law were to prohibit furnishers from furnishing such information to consumer reporting agencies, such a law would also not generally be preempted. Similarly, if a State law required that a consumer reporting agency provide information required by the FCRA at the consumer's requests in languages other than English, such a law would generally not be preempted.	Lending	6/28/2022

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CFPB Interpretive Rule	6/29/2022	**<u>Advisory Opinion on Debt Collectors' Collection of Pay-to-Pay Fees</u>** The Consumer Financial Protection Bureau (CFPB) is issuing this advisory opinion to affirm that the Fair Debt Collection Practices Act and Regulation F prohibit debt collectors from charging consumers pay-to-pay fees (also known as convenience fees) for making payment a particular way, such as by telephone or online, unless those fees are expressly authorized by the underlying agreement or are affirmatively permitted by law.	Lending	6/29/2022
Joint Guidance	7/01/2022	**<u>Agencies Release List of Distressed or Underserved Nonmetropolitan Middle–Income Geographies</u>** Federal bank regulatory agencies today made available the 2022 list of distressed or underserved nonmetropolitan middle-income geographies. These are geographic areas where revitalization or stabilization activities are eligible to receive Community Reinvestment Act (CRA) consideration pursuant to the definition of community development under the agencies' regulations. Visit the Federal Financial Institutions Examination Council (FFIEC) website to see the 2022 list, previous years' lists, and criteria for designating these areas. Distressed or underserved nonmetropolitan middle-income geographies are designated by the agencies in accordance with their CRA regulations. The designations continue to reflect local economic conditions, including unemployment, poverty, and population changes. The 2022 list uses the County Intercensal Estimates for 2000-2010 for population estimates because the County Intercensal Estimates for 2010-2020 are not yet available. Revitalization or stabilization activities in these geographies are eligible to receive CRA consideration under the community development definition for 12 months after publication of the current list. As with past lists, the agencies apply a one-year lag period for geographies that were included in 2021 but are no longer designated as distressed or underserved in the current list.	Lending	7/01/2022

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Joint Guidance	7/06/2022	**Joint Statement on the Risk-Based Approach to Assessing Customer Relationships and Conducting Customer Due Diligence** The Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Financial Crimes Enforcement Network, the National Credit Union Administration, and the Office of the Comptroller of the Currency (collectively, the Agencies), are issuing this joint statement to remind banks of the risk-based approach to assessing customer relationships and conducting customer due diligence (CDD). This statement does not alter existing Bank Secrecy Act/Anti-Money Laundering (BSA/AML) legal or regulatory requirements, nor does it establish new supervisory expectations. The Agencies recognize that it is important for customers engaged in lawful activities to have access to financial services. Therefore, the Agencies are reinforcing a longstanding position that no customer type presents a single level of uniform risk or a particular risk profile related to money laundering, terrorist financing, or other illicit financial activity.	All	7/06/2022
CFPB	7/07/2022	**CFPB Issues Advisory to Protect Privacy When Companies Compile Personal Data** The Consumer Financial Protection Bureau (Bureau) is issuing this advisory opinion to outline certain obligations of consumer reporting agencies and consumer report users under section 604 of the Fair Credit Reporting Act (FCRA). This advisory opinion explains that the permissible purposes listed in FCRA section 604(a)(3) are consumer specific, and it affirms that a consumer reporting agency may not provide a consumer report to a user under FCRA section 604(a)(3) unless it has reason to believe that all of the consumer report information it includes pertains to the consumer who is the subject of the user's request. The Bureau notes that disclaimers will not cure a failure to have a reason to believe that a user has a permissible purpose for a consumer report provided pursuant to FCRA section 604(a)(3). This advisory opinion also reminds consumer report users that FCRA section 604(f) strictly prohibits a person who uses or obtains a consumer report from doing so without a permissible purpose.	All	7/07/2022
FDIC	7/29/2022	**Fact Sheet: What the Public Needs to Know About FDIC Deposit Insurance and Crypto Companies** Over the past several months, some crypto companies have suspended withdrawals or halted operations. In some cases, these companies have represented to their customers that their products are eligible for FDIC deposit insurance coverage, which may lead customers of these companies to believe, mistakenly, that their money or investments are safe. The FDIC is concerned that some customers of crypto companies, such as crypto custodians, exchanges, brokers, wallet providers, and neobanks may be confused about whether, and if so, how, they may be covered by FDIC deposit insurance. This Fact Sheet is intended to address some common misconceptions about the scope of deposit insurance coverage and whether deposit insurance applies to funds that customers provide to these crypto companies. The FDIC is providing the information below to assist the public in understanding FDIC deposit insurance coverage in light of recent market activity and media reports.	Retail	7/29/2022

Agency	Date Issued	Summary	Business Units Affected	Effective Date
FDIC	8/18/2022	**Supervisory Guidance on Multiple Re-Presentment NSF Fees** The Federal Deposit Insurance Corporation (FDIC) is issuing guidance to ensure that supervised institutions are aware of the consumer compliance risks associated with assessing multiple non-sufficient funds (NSF) fees arising from the re-presentment of the same unpaid transaction. Additionally, the FDIC is sharing its supervisory approach where a violation of law is identified, and full corrective action is expected.	Retail	8/18/2022
CFPB FRB OCC	10/13/2022	**Agencies announce threshold for smaller loan exemption from appraisal requirements for higher-priced mortgage loans.** The Consumer Financial Protection Bureau, the Federal Reserve Board, and the Office of the Comptroller of the Currency today announced that the 2023 threshold for exempting loans from special appraisal requirements for higher-priced mortgage loans will increase from $28,500 to $31,000. The threshold amount will be effective January 1, 2023 and is based on the annual percentage increase in the Consumer Price Index for Urban Wage Earners and Clerical Workers, known as CPI-W, as of June 1, 2022.	Lending	1/1/2023
CFPB FRB	10/13/2022	**Agencies announce dollar thresholds in Regulation Z and Regulation M for exempt consumer credit and lease transactions.** The Federal Reserve Board and the Consumer Financial Protection Bureau today announced the dollar thresholds used to determine whether certain consumer credit and lease transactions in 2023 are exempt from Regulation Z (Truth in Lending) and Regulation M (Consumer Leasing). Based on the annual percentage increase in the CPI-W as of June 1, 2022, Regulation Z and Regulation M generally will apply to consumer credit transactions and consumer leases of $66,400 or less in 2023. However, private education loans and loans secured by real property, such as mortgages, are subject to Regulation Z regardless of the amount of the loan.	Lending	1/1/2023
CFPB	10/27/2022	**CFPB Issues Guidance to Help Banks Avoid Charging Illegal Junk Fees on Deposit Accounts** The Consumer Financial Protection Bureau (CFPB) issued guidance about two junk fee practices that are likely unfair and unlawful under existing law. The first, surprise overdraft fees, includes overdraft fees charged when consumers had enough money in their account to cover a debit charge at the time the bank authorizes it. The second is the practice of indiscriminately charging depositor fees to every person who deposits a check that bounces. The penalty is an unexpected shock to depositors who thought they were increasing their funds. Overdraft and depositor fees likely violate the Consumer Financial Protection Act prohibition on unfair practices when consumers cannot reasonably avoid them. Today's Consumer Financial Protection Circular on surprise overdraft fees and the CFPB's compliance bulletin on surprise depositor fees lay out when a financial institution's back-end penalties likely break the law.	Retail	10/27/2022

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CFPB	11/10/2022	**<u>CFPB Issues Guidance to Address Shoddy Investigation Practices by Consumer Reporting Companies</u>** The Consumer Financial Protection Bureau (CFPB) issued a circular to affirm that neither consumer reporting companies nor information furnishers can skirt dispute investigation requirements. The circular outlines how federal and state consumer protection enforcers, including regulators and attorneys general, can bring claims against companies that fail to investigate and resolve consumer report disputes. The CFPB has found that consumer reporting companies and some furnishers have failed to conduct reasonable investigations of consumer disputes and to spend the time necessary to get to the bottom of inaccuracies. These failures can affect, among other things, people's eligibility for loans and interest rates, for insurance, and for rental housing and employment.	Lending	11/10/2022
CFPB	12/06/2022	**<u>Changes to HMDA's closed-end loan reporting threshold.</u>** On September 23, 2022, the United States District Court for the District of Columbia issued an order vacating the 2020 Home Mortgage Disclosure Act (HMDA) Final Rule as to the loan volume reporting threshold for closed-end mortgage loans. The decision means that the threshold for reporting data on closed-end mortgage loans is now 25 loans in each of the two preceding calendar years, which is the threshold established by the 2015 HMDA Final Rule, rather than the 100-loan threshold set by the 2020 HMDA Final Rule. The CFPB recognizes that financial institutions affected by this change may need time to implement or adjust policies, procedures, systems, and operations to come into compliance with their reporting obligations. In these limited circumstances, in allocating the CFPB's enforcement and supervisory resources, the CFPB does not view action regarding these institutions' HMDA data as a priority. Thus, the CFPB does not intend to initiate enforcement actions or cite HMDA violations for failures to report closed-end mortgage loan data collected in 2022, 2021, or 2020 for institutions subject to the CFPB's enforcement or supervisory jurisdiction that meet Regulation C's other coverage requirements and originated at least 25 closed-end mortgage loans in each of the two preceding calendar years but fewer than 100 closed-end mortgage loans in either or both of the two preceding calendar years. An update to the regulation in the Federal Register was released on 12/13/22, officially vacating the 100 and reducing the count to 25 in each of the preceding two calendar years effective July 1, 2020.	Lending	01/01/2023

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Joint Issuance	12/15/2022	**Federal Bank Regulatory Agencies Release 2021 Small Business, Small Farm, and Community Development Lending Data** The federal bank regulatory agencies, as members of the Federal Financial Institutions Examination Council (FFIEC), today released data on small business, small farm, and community development lending during 2021. The Community Reinvestment Act regulations require the agencies to annually disclose these data. The FFIEC also prepared aggregate disclosure statements of small business and small farm lending for all of the metropolitan statistical areas and non-metropolitan counties in the United States and its territories.	Lending	12/15/2022
CFPB	12/16/2022	**Notice of Availability of Revised Consumer Information Publication (Updated HELOC Booklet)** The Consumer Financial Protection Bureau (Bureau or CFPB) announces the availability of an updated consumer publication, "What You Should Know about Home Equity Lines of Credit," also known as the HELOC booklet, required by the Truth in Lending Act (TILA), as implemented by Regulation Z. This version of the HELOC booklet is updated to align with the Bureau's educational efforts, to be more concise, and to improve readability and usability.	Lending	12/16/2022
Joint Issuance	12/19/2022	**Agencies release annual asset-size thresholds under Community Reinvestment Act regulations.** The Federal Reserve Board and the Federal Deposit Insurance Corporation today announced the 2023 updated asset-size thresholds (OCC announced on 12/29/22) used to define "small bank" and "intermediate small bank" under their Community Reinvestment Act (CRA) regulations. As a result of the 8.60 percent increase in the CPI-W for the period ending in November 2022, the definitions of small and intermediate small banks for CRA examinations will change as follows: - Small bank means an institution that, as of December 31 of either of the prior two calendar years, had assets of less than $1.503 billion. - Intermediate small bank means a small institution with assets of at least $376 million as of December 31 of both of the prior two calendar years and less than $1.503 billion as of December 31 of either of the prior two calendar years.	Lending	12/19/2022

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CFPB	12/23/2022	**<u>Truth in Lending (Regulation Z) Annual Threshold Adjustments (Credit Cards, HOEPA, and Qualified Mortgages)</u>** The Consumer Financial Protection Bureau (Bureau) is issuing this final rule amending the regulation text and official interpretations for Regulation Z, which implements the Truth in Lending Act (TILA). The Bureau calculates the dollar amounts for several provisions in Regulation Z annually; this final rule revises, as applicable, the dollar amounts for provisions implementing TILA and amendments to TILA, including under the Home Ownership and Equity Protection Act of 1994 (HOEPA), and the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act).	Lending	1/01/2023
CFPB	12/28/2022	**<u>Truth in Lending Act (Regulation Z) Adjustment to Asset-Size Exemption Threshold</u>** For certain first-lien higher-priced mortgage loans, the exemption threshold is adjusted to increase to $2.537 billion from $2.336 billion. Therefore, creditors with assets of less than $2.537 billion (including assets of certain affiliates) as of Dec. 31, 2022, are exempt, if other requirements of Regulation Z also are met, from establishing escrow accounts for higher-priced mortgage loans in 2023. This asset limit will also apply during a grace period, in certain circumstances, with respect to transactions with applications received before April 1 of 2024. For certain insured depository institutions and insured credit unions meeting certain conditions, including an asset size exemption threshold, the exemption threshold is adjusted to increase to $11.374 billion from $10.473 billion. Therefore, insured depository institutions and insured credit unions that during calendar year 2022 had assets of $11.374 billion or less on December 31, 2022, will meet the asset-size exemption threshold for purposes of any loan consummated in 2023 and for purposes of any loan secured by a first lien on a principal dwelling of a consumer consummated in 2024 for which the application was received before April 1, 2024. These adjustments are based on the 8.6 percent increase in the average of the CPI-W for the 12-month period ending in November 2022.	Lending	1/01/2023
CFPB	12/28/2022	**<u>Home Mortgage Disclosure (Regulation C) Adjustment to Asset-Size Exemption Threshold</u>** The exemption threshold is adjusted to increase to $54 million from $50 million. The adjustment is based on the 8.6 percent increase in the average of the CPI-W for the 12-month period ending in November 2022. Therefore, banks, savings associations, and credit unions with assets of $54 million or less as of Dec. 31, 2022, are exempt from collecting data in 2023.	Lending	1/01/2023