



Regulatory Updates – 2nd Quarter 2023

AGENCY	DATE ISSUED	SUMMARY	BUSINESS UNITS AFFECTED	EFFECTIVE DATE
CFPB	4/03/2023	<p><u>Policy Statement on Abusiveness</u></p> <p>The Consumer Financial Protection Bureau (CFPB) issued a policy statement that explains the legal prohibition on abusive conduct in consumer financial markets and summarizes over a decade of precedent. The CFPB leads enforcement and supervision efforts to identify and end abusive conduct against consumers. In 2010, in response to the financial crisis, Congress passed the Consumer Financial Protection Act, and created the prohibition on abusive conduct. The Act tasks the CFPB, federal banking regulators, and states with the responsibility to enforce the prohibition, and puts the CFPB in charge of administering it. The policy statement will assist consumer financial protection enforcers in identifying wrongdoing and will help firms avoid committing abusive acts or practices.</p>	All	4/03/2023
FDIC	4/05/2023	<p><u>FDIC’s Consumer Compliance Supervisory Highlights</u></p> <p>The FDIC’s Consumer Compliance Supervisory Highlights is a publication that features articles of interest to the banking industry. Its purpose is to enhance transparency regarding the FDIC’s consumer compliance supervisory activities and provide a high-level overview of consumer compliance issues identified in 2022 through the FDIC’s supervision of state non-member banks and thrifts. Topics include supervisory observations related to consumer protection laws, examples of practices that may be useful to institutions in mitigating risks, regulatory developments, consumer compliance resources, and an overview of consumer complaint trends.</p>	All	4/05/2023
FDIC	4/24/2023	<p><u>FDIC Equal Housing Lender Poster Correction</u></p> <p>The Federal Deposit Insurance Corporation (FDIC) is making a technical correction to the FDIC’s Fair Housing Rule to reinsert a previous instruction regarding the Equal Housing Lending Poster. In August 2022, the FDIC updated 12 CFR part 338 through a technical correction to replace the reference to “Consumer Response Center” in the bracketed instruction with its new name, the “National Center for Consumer and Depositor Assistance,” and to add the web address for the National Center for Consumer and Depositor Assistance complaint portal. When updating 12 CFR part 338 in August 2022, the bracketed instruction to include the mailing address was inadvertently removed. Therefore, the FDIC is making a further technical correction to 12 CFR part 338 to reinsert the bracketed instruction for FDIC-supervised institutions to insert on their Equal</p>	Lending	6/23/2023

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		Housing Lending Posters the mailing address for the National Center for Consumer and Depositor Assistance as stated on the FDIC's website at www.fdic.gov .		
FDIC	4/26/2023	<u>Supervisory Guidance on Charging Overdraft Fees for Authorize Positive, Settle Negative Transactions</u> The FDIC is issuing supervisory guidance to its supervised institutions to ensure that supervised institutions are aware of the consumer compliance risks associated with assessing overdraft fees on a transaction that was authorized against a positive balance but settled against a negative balance (APSN).	Retail	4/26/2023
OCC	4/26/2023	<u>Overdraft Protection Programs: Risk Management Practices</u> The Office of the Comptroller of the Currency (OCC) is issuing this bulletin to banks to address the risks associated with overdraft protection programs. Overdraft protection programs can present a variety of risks, including compliance, operational, reputation, and credit risks. Specifically, this bulletin discusses certain practices that may present heightened risk of violating prohibitions against unfair or deceptive acts or practices. The bulletin also describes practices that may assist banks with managing overdraft protection program risks. When supported by appropriate risk management practices, overdraft protection programs may assist some consumers in meeting short-term liquidity and cash-flow needs. The OCC recognizes that some banks have announced changes to their overdraft protection programs that may be consistent with appropriate risk management practices.	Retail	4/26/2023
Joint Guidance	4/26/2023	<u>Joint Statement on Completing the LIBOR Transition</u> Five federal financial institution regulatory agencies in conjunction with the state bank and state credit union regulators (collectively, agencies) are jointly issuing this statement to remind supervised institutions that U.S. dollar (USD) LIBOR panels will end on June 30, 2023. The agencies also reiterate their expectations that institutions with USD LIBOR exposure should complete their transition of remaining LIBOR contracts as soon as practicable. As noted in prior interagency statements, failure to adequately prepare for LIBOR's discontinuance could undermine financial stability and institutions' safety and soundness and create litigation, operational, and consumer protection risks.	Lending	4/26/2023
CFPB	4/26/2023	<u>Fair Debt Collection Practices Act (Regulation F); Time-Barred Debt</u> The Consumer Financial Protection Bureau (CFPB) is issuing this advisory opinion to affirm that the Fair Debt Collection Practices Act (FDCPA) and its implementing Regulation F prohibit a debt collector, as that term is defined in the statute and regulation, from suing or threatening to sue to collect a time-barred debt. Accordingly, an FDCPA debt collector who brings or threatens to bring a state court foreclosure action to collect a time-barred mortgage debt may violate the FDCPA and Regulation F.	Lending	4/26/2023

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CFPB	5/10/2023	<p><u>CFPB Issues Guidance to Rein in Creation of Fake Accounts to Harvest Fees</u></p> <p>The Consumer Financial Protection Bureau (CFPB) issued a new circular affirming that a bank may violate federal law if it unilaterally reopens a deposit account to process transactions after a consumer has already closed it. The CFPB has observed in complaints that even after a consumer completes all the required steps to close an account, their bank has “reopened” the closed account and assessed overdraft and nonsufficient funds fees. Consumers have reported to the CFPB that financial institutions have also charged account maintenance fees upon reopening, even if the consumer was not required to pay account maintenance fees prior to account closure.</p>	Retail	5/10/2023
CFPB	5/31/2023	<p><u>Small Business LAR Policy Guidance</u></p> <p>The Consumer Financial Protection Bureau (CFPB) is publishing a statutorily mandated small business lending rule concurrently with this Policy Guidance. The rule amends Regulation B to implement changes to the Equal Credit Opportunity Act (ECOA) made by section 1071 of the Consumer Financial Protection Act of 2010 (CFPA). This policy guidance informs covered financial institutions that the CFPB intends to focus its supervisory and enforcement activities in connection with the new rule in particular on ensuring that covered lenders do not discourage small business loan applicants from providing responsive data, including responses to lenders’ ECOA-mandated demographic data requests.</p>	Lending	8/29/2023
Joint Guidance (FRB, FDIC, OCC)	6/06/2023	<p><u>Interagency Guidance on Third-Party Relationships: Risk Management</u></p> <p>The Federal Deposit Insurance Corporation (FDIC), the Board of Governors of the Federal Reserve System (FRB), and the Office of the Comptroller of the Currency (OCC) (collectively, the agencies) are issuing final guidance on managing risks associated with third-party relationships. The guidance provides sound principles that support a risk-based approach to third-party risk management that banking organizations may consider when developing and implementing risk management practices for all stages in the life cycle of third-party relationships.</p>	All	6/06/2023

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FDIC	6/16/2023	<p><u>FDIC Clarifying Supervisory Approach Regarding Supervisory Guidance on Multiple Re-Presentation NSF Fees</u></p> <p>The FDIC has updated its Supervisory Guidance on Multiple Re-Presentation NSF Fees (FIL-40-2022) to clarify its supervisory approach for corrective action when a violation of law is identified.</p> <ul style="list-style-type: none"> - Since the issuance of the Supervisory Guidance on Multiple Re-Presentation NSF Fees (FIL-40-2022), steps financial institutions have taken to remediate consumer harm associated with re-presentation fees have provided the FDIC with additional data about the amount of consumer harm associated with the issue at particular institutions and on-going and extensive challenges in accurately identifying harmed parties. - Based on this additional data and experience, the FDIC is updating and reissuing its Supervisory Guidance on Multiple Re-Presentation NSF Fees (FIL-40-2022) to reflect our current supervisory approach to not request an institution to conduct a lookback review absent a likelihood of substantial consumer harm. 	Retail	6/16/2023
CFPB	6/28/2023	<p><u>CFPB FAQ and RegCast Slide Deck</u></p> <p>On June 28, 2023, the CFPB issued a new compliance aid for the small business rule: a set of Frequently Asked Questions and a slide deck for its RegCast.</p> <p>The FAQs and slide deck address questions of Institutional Coverage as well as covered credit transactions and small business definition. The materials came from a webinar held in June.</p>	Lending	October 1, 2024, April 1, 2025, or January 1, 2026, as set forth in § 1002.114(b).