



Regulatory Updates – 1st Quarter 2023

AGENCY	DATE ISSUED	SUMMARY	BUSINESS UNITS AFFECTED	EFFECTIVE DATE
FDIC FRB OCC	1/03/2023	<u>Joint Statement on Crypto-Asset Risks to Banking Organizations</u> The Board of Governors of the Federal Reserve System (Federal Reserve), the Federal Deposit Insurance Corporation (FDIC), and the Office of the Comptroller of the Currency (OCC) (collectively, the agencies) are issuing the following statement on crypto-asset risks to banking organizations.	Management	1/03/2023
FinCEN	1/13/2023	<u>FinCEN Issues Alert on Human Smuggling Along the Southwest Border of the United States</u> The Financial Crimes Enforcement Network (FinCEN) issued an alert today to better support financial institutions in detecting financial activity related to human smuggling along the southwest border of the United States. The alert provides trends, typologies, and red flag indicators to help financial institutions better identify and report suspicious transactions potentially related to such activity.	All	1/13/2023
CFPB	1/19/2023	<u>CFPB Issues Guidance to Root Out Tactics Which Charge People Fees for Subscriptions They Don't Want</u> The Consumer Financial Protection Bureau (CFPB) issued a new circular affirming that companies offering “negative option” subscription services must comply with federal consumer financial protection law. Negative option programs include subscription services that automatically renew unless the consumer affirmatively cancels, and trial marketing programs that charge a reduced fee for an initial period and then automatically begin charging a higher fee. Companies risk violating the law if they do not clearly and conspicuously disclose the terms of their subscription services and obtain consumers’ informed consent, or if they make it unreasonably difficult for consumers to cancel. Drawing from the Federal Trade Commission’s (FTC) recent policy statement and the CFPB’s past enforcement cases, the circular highlights examples of unlawful behavior by companies that have used dark patterns and other manipulative tactics to trick consumers into paying recurring charges for products and services they do not want.	Retail	1/19/2023

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OCC	2/01/2023	<p><u>Home Mortgage Disclosure Act: Loan Origination Threshold Changes</u></p> <p>The Office of the Comptroller of the Currency (OCC) is issuing this bulletin to inform banks and OCC examining personnel that the loan origination threshold for reporting Home Mortgage Disclosure Act (HMDA) data on closed-end mortgage loans has changed. Due to a recent court decision, the threshold for reporting is now 25 closed-end mortgage loans originated in each of the two preceding calendar years.</p>	Lending	2/01/2023
FRB	2/02/2023	<p><u>CA 23-1: Changes to Home Mortgage Disclosure Act (HMDA) Loan Volume Reporting Threshold for Closed-end Mortgage Loans</u></p> <p>This letter addresses the impact on financial institutions supervised by the Federal Reserve of recent changes as a result of litigation related to the HMDA reporting threshold for closed-end mortgage loans.</p>	Lending	2/02/2023
FDIC	2/03/2023	<p><u>FDIC Supervisory Approach Regarding Changes to HMDA's Closed-End Mortgage Loan Volume Reporting Threshold</u></p> <p>The Federal Deposit Insurance Corporation (FDIC) is issuing this Financial Institution Letter to inform supervised institutions of recent changes regarding the Home Mortgage Disclosure Act (HMDA) reporting threshold for closed-end mortgage loans and the FDIC's supervisory approach for enforcing related requirements. For FDIC-supervised institutions that meet Regulation C's coverage requirements, the threshold for reporting data on closed-end mortgage loans is now 25 loans in each of the two preceding calendar years. In addition, for closed-end mortgage data collected in the years 2022, 2021, or 2020, the FDIC does not intend to initiate enforcement actions or cite HMDA violations for certain failures to report such loan data, as described in detail below.</p>	Lending	2/03/2023

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CFPB	2/07/2023	<p><u>Advisory Opinion: Real Estate Settlement Procedures Act (Regulation X); Digital Mortgage Comparison-Shopping Platforms and Related Payments to Operators</u></p> <p>The Consumer Financial Protection Bureau (CFPB) is issuing this Advisory Opinion to address the applicability of the Real Estate Settlement Procedures Act (RESPA) section 8 to operators of certain digital technology platforms that enable consumers to comparison shop for mortgages and other real estate settlement services, including platforms that generate potential leads for the platform participants through consumers’ interaction with the platform (Digital Mortgage Comparison-Shopping Platforms). Generally, this Advisory Opinion describes how an operator of a Digital Mortgage Comparison-Shopping Platform violates RESPA section 8 if the platform provides enhanced placement or otherwise steers consumers to platform participants based on compensation the platform operator receives from those participants rather than based on neutral criteria. More specifically, this Advisory Opinion states that an operator of a Digital Mortgage Comparison-Shopping Platform receives a prohibited referral fee in violation of RESPA section 8 when: (1) the Digital Mortgage Comparison-Shopping Platform non-neutrally uses or presents information about one or more settlement service providers participating on the platform; (2) that non-neutral use or presentation of information has the effect of steering the consumer to use, or otherwise affirmatively influences the selection of, those settlement service providers, thus constituting referral activity; and (3) the operator receives a payment or other thing of value that is, at least in part, for that referral activity. Furthermore, if an operator of a Digital Mortgage Comparison-Shopping Platform receives a higher fee for including one settlement service provider compared to what it receives for including other settlement service providers participating on the same platform, that can be evidence of an illegal referral fee arrangement absent other facts indicating that the payment is not for enhanced placement or other form of steering.</p>	Lending	2/07/2023
FinCEN	2/27/2023	<p><u>FinCEN Alert on Nationwide Surge in Mail Theft-Related Check Fraud Schemes Targeting the U.S. Mail</u></p> <p>In light of a nationwide surge in check fraud schemes targeting the U.S. Mail (hereinafter “mail theft-related check fraud”), the Financial Crimes Enforcement Network (FinCEN) is issuing this alert to financial institutions to be vigilant in identifying and reporting such activity. Mail theft-related check fraud generally pertains to the fraudulent negotiation of checks stolen from the U.S. Mail. Fraud, including check fraud, is the largest source of illicit proceeds in the United States and represents one of the most significant money laundering threats to the United States, as highlighted in the U.S. Department of the Treasury’s most recent National Money Laundering Risk Assessment and National Strategy for Combatting Terrorist and other Illicit Financing. Fraud is also one of the anti-money laundering/countering the financing of terrorism (AML/CFT) National Priorities.</p>	All	2/27/2023

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CFPB	3/20/2023	<p><u>Agency Contact Information</u></p> <p>The Consumer Financial Protection Bureau (Bureau or CFPB) is issuing this final rule to make non-substantive corrections and updates to Bureau and other Federal agency contact information found at certain locations in Regulations B, E, F, J, V, X, Z, and DD, including Federal agency contact information that must be provided with Equal Credit Opportunity Act adverse action notices and the Fair Credit Reporting Act Summary of Consumer Rights. This final rule also revises the chapter heading, makes various non-substantive changes to Regulations B and V, and provides a Bureau website address where the public may access certain APR tables referenced in Regulation Z.</p>	Lending	Effective 4/19/2023 mandatory 3/20/24
CFPB	3/30/2023	<p><u>Small Business Lending under the Equal Credit Opportunity Act (Regulation B)</u></p> <p>The Consumer Financial Protection Bureau (CFPB) is amending Regulation B to implement changes to the Equal Credit Opportunity Act (ECOA) made by section 1071 of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Dodd-Frank Act). Consistent with section 1071, covered financial institutions are required to collect and report to the CFPB data on applications for credit for small businesses, including those that are owned by women or minorities. The final rule also addresses the CFPB's approach to privacy interests and the publication of data; shielding certain demographic data from underwriters and other persons; recordkeeping requirements; enforcement provisions; and the rule's effective and compliance dates.</p>	Lending	Covered financial institutions must comply with the final rule beginning October 1, 2024, April 1, 2025, or January 1, 2026, as set forth in § 1002.114(b).