

Regulatory and Legislative Recap

January 2022

FINAL REGULATIONS/RULES

Effective Date	Rule (Agency)	Citation	Summary
04/01/2024	Simplification of Deposit Insurance Rules (FDIC)	87 FR 4455	The FDIC's 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. The final rule will take effect on April 1, 2024.
01/10/2022	Unsafe and Unsound Banking Practices: Brokered Deposits (FDIC)	87 FR 1065	The FDIC is identifying an additional business relationship, or "designated exception," that meets the "primary purpose" exception to the deposit broker definition. The business relationship relates to specific, non-discretionary custodial services offered by third parties to depositors or depositors' agents. Entities that meet the criteria detailed below will be permitted to rely upon the primary purpose exception without submitting a notice or application.

PROPOSED REGULATIONS

Comments Due	Rule (Agency)	Citation	Summary
03/28/2022	Pilot Program on Sharing of Suspicious Activity Reports and Related Information With Foreign Branches, Subsidiaries, and Affiliates (FinCEN)	87 FR 3719	FinCEN issued a Notice of Proposed Rulemaking that solicits public comment on the establishment of a limited-duration pilot program for sharing SARs, in accordance with Section 6212 of the Anti-Money Laundering Act of 2020. The pilot program would permit a financial institution with a SAR reporting obligation to share SARs and information related to SARs with the institution's foreign branches, subsidiaries, and affiliates for the purpose of combating illicit finance risks, subject to approval and conditions set by FinCEN.

RESOURCES/GUIDANCE

Guidance	Summary
Justice-Involved Individuals and the Consumer	The CFPB published a review of the financial issues facing people and families who come in contact with the criminal justice system. The report describes an ecosystem rife with burdensome fees and lack of choice, and where families are increasingly being forced to shoulder the costs. It walks through the financial challenges families encounter at

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<u>Financial Marketplace</u> (CFPB)	every stage of the criminal justice process, and the ways in which providers – often for-profit private companies – are leveraging a lack of consumer choice and their own market dominance to impose hefty fees at families' expense.
<u>Rural and Underserved Counties List</u> (CFPB)	The CFPB released the lists of rural counties and rural or underserved counties that entities can use in 2022 to determine whether they are exempt from certain regulatory requirements of the Truth in Lending Act.
<u>Buy Now, Pay Later</u> (CFPB)	On December 16, 2021, the CFPB opened market monitoring orders, inquiring into Buy-Now-Pay-Later (BNPL) products in the United States to gain information about the size, scope, and business practices of the BNPL market. The information will help the Bureau better understand how consumers interact with BNPL providers, and how BNPL business models impact the broader e-commerce and consumer credit marketplaces. The CFPB invites any interested parties, including consumers, small businesses, consumer advocates, financial institutions, trade associations, investors, state and Federal regulators and Attorneys General, and experts in consumer lending, payments, and marketing to submit comments to inform the agency's inquiry.
<u>Notification to Institutions Covered by the FDIC's Recordkeeping for Timely Deposit Insurance Determination Rule Regarding Amendments to the Deposit Insurance Coverage Rules</u> (FDIC)	The FDIC published this notification to insured depository institutions covered by its Recordkeeping for Timely Deposit Insurance Determination rule that it has amended its deposit insurance coverage rules for certain trust accounts and mortgage servicing accounts and such amendments will take effect on April 1, 2024. The FDIC is publishing this notification to specify for covered institutions that they must prepare updates or changes to their deposit insurance calculation capabilities as a result of the amendments, and such changes must be implemented and operational on April 1, 2024, the effective date of the amendments.
<u>Data Security Best Practices</u> (CO AGA)	The Colorado AGO's Office, Consumer Protection Section, issued guidance regarding data security best practices. Businesses subject to the Colorado Privacy Act can look to these best practices as a roadmap for the technical and organizational data security safeguards the law requires businesses to implement.
<u>Extension of Emergency Proclamation</u> (Montana DBFI)	The Division of Banking and Financial Institutions extended, until May 1, 2022, its Proclamation of Emergency that allows state-charted institutions to close branches at any time the institution is experiencing severe staffing shortages do to, or exuberated by, the COVID-19 pandemic, if the institution deems it necessary to protect the safety and security of persons or property or both.

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<u>Operating Fee Schedule</u> (NCUA)	In December, the NCUA Board unanimously approved a new budget. As a result of that decision and other factors, federal credit union operating fees will decrease by an average of 23.7 percent in 2022.
<u>Succession Planning</u> (NCUA)	During its first open board meeting of the year, the NCUA approved a proposed rule that would require boards of directors at federal credit unions to establish and adhere to processes for succession planning. Under the proposed rule, credit union directors would also be required to have knowledge of the federal credit union's succession plan. The proposed rule would provide federal credit unions with broad discretion in implementing the proposed regulatory requirements to minimize any burden. Although the proposed rule would apply only to federal credit unions, the NCUA Board encourages all credit unions, regardless of asset size, to have a succession plan to fill key positions and ensure their credit unions continued operations.
<u>Cybersecurity Alert</u> (NCUA)	The NCUA notes that "Given current geopolitical events, the NCUA, along with CISA, the Federal Bureau of Investigation, and the National Security Agency encourage credit unions and their cybersecurity teams nationwide to adopt a heightened state of awareness and to conduct proactive threat hunting. In addition, COVID-related supply chain disruptions may require management to reevaluate previously held assumptions for business continuity and disaster recovery plans."
<u>Virtual Currencies and Human and Drug Trafficking</u> (GAO)	The U.S. Government Accountability Office issued a more detailed and confidential report previously sent to Congress which summarized the GAO's review of the use of virtual currencies to facilitate human and drug trafficking. The Report examined two issues: (1) U.S. agencies' collection of data on the use of virtual currencies for human and drug trafficking; and (2) the steps taken, and challenges faced by U.S. agencies to counter human and drug trafficking facilitated by virtual currencies.
<u>No Negative Reviews can be Spendy</u> (FTC)	The FTC announced that an online retailer must pay \$4.2 million to settle allegations that the company blocked negative reviews of its products from being posted to its website.
<u>Junk Fees</u> (CFPB)	The CFPB released a Request for Information for the public to share input that will "help shape the agency's rulemaking and guidance agenda, as well as its enforcement priorities in the coming months and years." The fees being reviewed, called junk fees by the CFPB, include penalty fees such as late fees, overdraft fees, non-sufficient funds (NSF) fees, convenience fees for processing payments, minimum balance fees, return item fees, stop payment fees, check image fees, fees for paper statements, fees to replace a card, fees for out-of-network ATMs, foreign transaction fees, ACH transfer fees, wire transfer fees, account closure fees, inactivity fees, fees to investigate fraudulent activity, ancillary fees in the mortgage closing process, and more. In a related <u>blog post</u> , the CFPB focuses on credit card interest and fees.

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<u>Letter to Credit Unions</u> <u>22-CU-02</u> (NCUA)	The NCUA issued the Letter outlining its supervisory and examination priorities for 2022. Primary focus areas include: credit risk management, cybersecurity, consumer protections, LIBOR transitioning, and interest rate risk.
<u>Statement of Principles on Examination Information Requests</u> (FFIEC)	The FFIEC has completed the final phase of the Examination Modernization Project. This statement presents the results of this final phase, in which the FFIEC members (1) developed and committed to implementing principles for examination information requests, and (2) developed a common authentication mechanism for external access to the FFIEC members' respective supervision systems
<u>Central Bank Digital Currency</u> (FRB)	The Federal Reserve Board released a discussion paper that examines the pros and cons of a potential U.S. central bank digital currency, or CBDC. It invites comment from the public and is the first step in a discussion of whether and how a CBDC could improve the safe and effective domestic payments system. The paper does not favor any policy outcome.
<u>College In-House Lending</u> (CFPB)	The CFPB announced it will begin examining the operations of post-secondary schools, such as for-profit colleges, that extend private loans directly to students. The CFPB is issuing an update to its exam procedures including a new section on institutional student loans. As the CFPB begins its supervision, the exam procedures inform industry about practices that CFPB examiners will review, including placing enrollment restrictions, withholding transcripts, improperly accelerating payments, failing to issue refunds, and maintaining improper lending relationships.
<u>Diversity and Inclusion</u> (CFPB)	The CFPB's Office of Minority Women and Inclusion (OMWI) released a report on diversity and inclusion in the financial services industry. The report, among other things, summarized the results of the Bureau's research in 2020 to further understand how companies under the Bureau's jurisdiction publicly show their commitment to diversity.
<u>Revised Call Report</u> (NCUA)	Following the NCUA Board's approval of a final rule that simplifies the risk-based capital requirements for eligible, complex credit unions, and as part of its Call Report Modernization Initiative, the NCUA has modified the Call Report, Form 5300, beginning with the March 2022 reporting cycle.
<u>Call Report Webinar</u> (NCUA)	On February 10, the NCUA will host a 90-minute webinar that will cover changes for credit unions effective March 2022, including new schedules for risk-based capital and the Complex Credit Union Leverage Ratio (CCULR), which became effective in January.
<u>Tech Sprint</u> (FDIC & FinCEN)	The FDIC along with FinCEN announced a Tech Sprint to develop solutions for financial institutions and regulators to help measure the effectiveness of digital identity proofing—the process used to collect, validate, and verify information about a person. Through the Tech Sprint, the agencies seek to increase efficiency and account security; reduce fraud and other forms of identity-related crime, money laundering, and terrorist financing; and foster customer confidence in the digital banking environment.

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<u>No Surprises Act Bulletin</u> (CFPB)	The CFPB published <i>Bulletin 2022-01: Medical Debt Collection and Consumer Reporting Requirements in Connection with the No Surprises Act</i> as a reminder to debt collectors and credit bureaus of their legal obligations in light of the No Surprises Act, which protects consumers from certain unexpected medical bills. Companies that try to collect on medical bills that are prohibited by the No Surprises Act, or who furnish information to credit bureaus about such invalid debts, may face significant legal liability under the Fair Debt Collection Practices Act (FDCPA) and the Fair Credit Reporting Act (FCRA). The bulletin advises credit bureaus that the accuracy and dispute obligations imposed by the FCRA apply with respect to debts stemming from charges that exceed the amount permitted by the No Surprises Act.
<u>Washington State Regulatory Relief</u> (FDIC)	The FDIC announced a series of steps intended to provide regulatory relief to financial institutions and facilitate recovery in areas of Washington affected by flooding and mudslides.
<u>MLO Settlement</u> (WA DFI)	The DFI announced that it and agencies from 41 other states reached settlements with 441 mortgage loan originators who deceptively claimed to have completed annual continuing education requirements. Through the settlements, the mortgage loan originators agreed to surrender their licenses for a period of three months, pay a fine of \$1,000 for each state in which they were issued a license and take continuing education beyond Secure and Fair Enforcement for Mortgage Licensing Act requirements.
<u>Consumer Loan Annual Assessments</u> (WA DFI)	All Washington State Consumer Loan Annual Assessments and payments are due by Tuesday, March 1, 2022. In order to avoid late fees and penalties, all assessment reports and payments must be submitted by March 1, 2022.
<u>Initiatives and Exam Focus for 2022</u> (WA DFI)	The Washington State Department of Financial Institutions, Division of Credit Unions, released B-22-02 <i>Initiatives and Exam Focus for 2022</i> . The Bulletin describes the DCU's current initiatives and what examiners will be looking for when conducting annual reviews of state-chartered credit unions during the year.
<u>Bulletin B-22-01</u> (WA DFI)	The DFI published a Bulletin, <i>Guidance on NCUA's Final Subordinated Debt Rule</i> , to help credit unions understand and comply with the Rule's requirements. The final subordinated debt rule now permits complex credit unions and newly chartered credit unions to issue subordinated debt to comply with risk-based capital requirements. The rule permits low-income credit unions (LICU) to issue debt instruments to qualifying natural persons but does not change the ability of a LICU to include Subordinated Debt in its net worth in the same manner in which it currently includes secondary capital in its net worth.
<u>CMP Inflation Adjustment</u> (NCUA)	The NCUA issued a final rule to adjust the maximum amount of each civil monetary penalty within its jurisdiction to account for inflation.
<u>HMDA Reporting</u> (CFPB)	The CFPB announced that the filing period for HMDA data opened January 1. The Filing Platform is available here , and the Instructions Guide is here .

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<u>Consumer Reporting Companies</u> (CFPB)	The CFPB released its annual list of consumer reporting companies, which identifies dozens of specialty reporting companies that collect and sell access to people's data, including individuals' finances, employment, check writing histories, or rental history records, often without their knowledge. Using the list, people can exercise their right to see what information these firms have, dispute inaccuracies, and file lawsuits if the firms are violating the Fair Credit Reporting Act.
<u>Credit Reporting Complaints</u> (CFPB)	The CFPB published its annual report which summarizes information the CFPB gathered regarding consumer complaints transmitted by the CFPB to the three major credit bureaus. The report touches on the FCRA's obligations for both credit reporting agencies and furnishers for responding to disputes.



COMPLIANCE SERVICES GROUP

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Washington Legislature as of January 31, 2022

<u>E2SSB 5188 - Concerning the creation of the Washington state public bank</u> <i>Concerning creation of the Washington state public financial cooperative. *</i>	
House Standing:	Senate Standing: On Floor Calendar
<u>HB 1729 – Establishing the Washington blockchain work group</u>	
House Standing: In Committee	Senate Standing:
<u>SB 5544 – Establishing the Washington blockchain work group</u> <i>Subject to appropriations, the Washington Blockchain Work Group (work group) is established with the purpose of examining various potential applications for blockchain technology such as computing, banking and other financial services, the real estate transaction process, health care, supply chain management, higher education, and public recordkeeping.</i>	
House Standing:	Senate Standing: In Committee
<u>EHB 1165 – Concerning the Washington Credit Union Act</u> <i>The Director shall determine, by rule, the definition of small credit unions for the purpose of providing relief from certain credit union requirements in state law or rule. *</i>	
House Standing: Passed House	Senate Standing:
<u>E2SHB 1015 – Creating the Washington Equitable Access to Credit Act</u> <i>Creates the Equitable Access to Credit Program to fund grants through the Department of Commerce to certain community development financial institutions (CDFI) to provide loans to historically underserved communities during the 2021-23 biennium.</i>	
House Standing: Passed House	Senate Standing: In Committee
<u>SB 5447 – Concerning financial products and services</u> <i>The department shall establish a regulatory sandbox program in consultation with applicable agencies of this state to enable a person to obtain limited access to the market in this state to test innovative financial products or services without obtaining a license or other authorization that otherwise might be required.</i>	
House Standing:	Senate Standing: In Committee
<u>SJM 8004 – Addressing “de-risking” by financial institutions</u> <i>Directs Congress to enact legislation that will provide transparency to customers or former customers of financial institutions that need to send remittance to families in other countries through wire transfers.</i>	
House Standing:	Senate Standing: On Floor Calendar
<u>SB 5602 – Concerning service providers working with state-regulated financial institutions</u> <i>Authorizes the Department of Financial Services to examine third party service providers to banks and take enforcement actions against them under certain circumstances.</i>	
House Standing:	Senate Standing: On Floor Calendar

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Oregon Legislature

Oregon State Legislature starts on February 1 and runs through March 7.



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