

## FINAL REGULATIONS/RULES

Effective Date	Rule (Agency)	Citation	Summary
08/17/2022	Limited Applicability of Consumer Financial Protection Act's "Time or Space" Exception With Respect to Digital Marketing Providers (CFPB)	<a href="#">87 FR 50556</a>	The CFPB issued an interpretive rule to address digital marketing providers that commingle the targeting and delivery of advertisements to consumers, such as by using algorithmic models or other analytics, with the provision of advertising "time or space." Digital marketing providers that are materially involved in the development of content strategy would not fall within the "time or space" exception as interpreted by the Bureau. Accordingly, digital marketing providers that are involved in the identification or selection of prospective customers or the selection or placement of content to affect consumer engagement, including purchase or adoption behavior, are typically service providers under the CFPA.

## PROPOSED REGULATIONS

Comments Due	Rule (Agency)	Citation	Summary

## RESOURCES/GUIDANCE

Guidance	Summary
<a href="#">Supervisory Insights</a> (FDIC)	The FDIC released its Summer 2022 issue of Supervisory Insights. The issue contains an article highlighting the financial performance in the wake of the pandemic of banks concentrated in commercial real estate (CRE) lending as well as examination observations about CRE lending risk management practices, and information that is intended to help financial institutions better understand the applicable capital, investment, and financial reporting requirements for the issuance of and investment in subordinated debt. The issue also includes the Regulatory and Supervisory Roundup, which is an overview of recently released regulations and other items of interest.
<a href="#">Interagency Policy Statement on Prudent Commercial Real Estate Loan Accommodations and Workouts</a> (FDIC, NCUA, OCC)	The OCC, FDIC, and NCUA, in consultation with state bank and credit union regulators, are inviting comment on a policy statement for prudent commercial real estate loan accommodations and workouts. This updated policy statement would build on existing guidance on the need for financial institutions to work prudently and constructively with creditworthy borrowers during times of financial stress, update existing interagency guidance on commercial real estate loan workouts, and add a new section on short-term loan accommodations.

<a href="#">Data Security</a> (CFPB)	<p>The CFPB published a circular that reaffirms that nonbank entities may violate the Consumer Financial Protection Act’s (CFPA) prohibition on unfair, deceptive, or abusive acts and practices (UDAAP) if they fail to maintain adequate data security safeguards. The CFPB stated that “In addition to other federal laws governing data security for financial institutions, including the Safeguards Rules issued under the Gramm-Leach-Bliley Act (GLBA), ‘covered persons’ and ‘service providers’ must comply with the prohibition on unfair acts or practices in the CFPA.”</p>
Cybersecurity Exam (CSBS)	<p>The Conference of State Bank Supervisors released two tools for nonbank financial services companies to improve their cybersecurity. The <a href="#">Baseline Nonbank Cybersecurity Exam Program</a> and the <a href="#">Enhanced Nonbank Cybersecurity Exam Program</a> are tools used by state examiners nationwide to assess the cyber preparedness of nonbank entities. The release of these tools provides these institutions the ability to improve their cybersecurity posture and better prepare for cybersecurity exams conducted by state examiners.</p>
<a href="#">Consumer Compliance Outlook</a> (FRB)	<p>The latest Consumer Compliance Outlook is now available. It contains information about mergers and acquisitions, commercial flood insurance, regulatory updates, and recent federal court opinions.</p>
<a href="#">Re-Presentment NSF Fees</a> (FDIC)	<p>The FDIC issued guidance to address certain consumer compliance risks associated with assessing multiple non-sufficient funds (NSF) fees arising from the re-presentment of the same unpaid transaction. During consumer compliance examinations, the FDIC found that some disclosures provided to customers did not fully or clearly describe the institution’s re-presentment practice, including not explaining that the same unpaid transaction might result in multiple NSF fees if an item was presented more than once.</p>
<a href="#">Crypto-Asset-Related Activities</a> (FRB)	<p>The Federal Reserve issued a supervisory letter which outlines the steps Board-supervised banks should take prior to engaging in crypto-asset-related activities, such as assessing whether such activities are legally permissible and determining whether any regulatory filings are required. Additionally, the supervisory letter states that Board-supervised banking organizations should notify the Board prior to engaging in crypto-asset-related activities. The supervisory letter also emphasizes that Board-supervised banking organizations should have adequate systems and controls in place to conduct crypto-asset-related activities in a safe and sound manner prior to commencing such activities.</p>
<a href="#">Consumer Compliance Manual Update</a> (FDIC)	<p>The FDIC updated the Telephone Consumer Protection Act and Capital sections of the manual. The TCPA section was updated to conform to requirements for telemarketers (1) to no longer allow use of an “established business relationship” to avoid getting consent from consumers, (2) to obtain prior express written consent from consumers before making calls with an autodialer or that contain a message made with a prerecorded or artificial voice, and (3) to require telemarketers to provide an automated, interactive “opt-out” mechanism during each of the type of calls mentioned above in “(2)” so that consumers can immediately tell the telemarketer to stop calling. Updates to capital section include a new capital planning section and revised instructions to accommodate financial institutions that have adopted the Current Expected Credit Losses (CECL) methodology or the Community Bank Leverage Ratio (CBLR) capital framework.</p>