FINAL REGULATIONS/RULES

Effective Date	Rule (Agency)	Citation	Summary
TBD	Small Business Lending Reporting (CFPB)	TBD	The CFPB has finalized a rule to increase transparency in small business lending, promote economic development, and combat unlawful discrimination. Lenders will collect and report information about the small business credit applications they receive, including geographic and demographic data, lending decisions, and the price of credit. The rule covers lenders making over 100 covered small business loans per year, including closed-end loans, lines of credit, credit cards, online credit products, and merchant cash advances. The rule defines a small business as one with gross revenue under $5 million in its last fiscal year. The rule also includes a streamlined sample form for lenders to use, if they so choose, to collect demographic data from small business credit applicants. The rule requires the largest lenders, which account for most of the small business lending market, to collect and report data earlier than smaller lenders. Specifically, lenders that originate at least 2,500 small business loans annually must collect data starting October 1, 2024. Lenders that originate at least 500 loans annually must collect data starting April 1, 2025. Lenders that originate at least 100 loans annually must collect data starting January 1, 2026.
04/19/2023	Agency Contact Information (CFPB)	88 FR 16531	The Consumer Financial Protection Bureau issued a 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.
03/23/2023	Unfair Billing and Collection Practices After Bankruptcy Discharges of Certain Student Loan Debts (CFPB)	88 FR 17366	The CFPB issued a Compliance Bulletin and Policy Guidance to address the treatment of certain private student loans following bankruptcy discharge. In order to secure a discharge of "qualified education loans" in bankruptcy, borrowers must demonstrate that the loans would impose an undue hardship if not discharged. Student loans that are not "qualified education loans" (non-qualified student loans), however, are discharged under standard bankruptcy discharge orders. In recent supervisory work, CFPB examiners identified servicers that did not determine whether education loans were qualified or non-qualified.

04/26/2023	Subordinated Debt (NCUA)	88 FR 18006	The final rule makes two changes to the current subordinated debt rule that was finalized in 2020. Specifically, it replaces the maximum permissible maturity of subordinated debt notes with a requirement that any credit union seeking to issue subordinated debt notes with maturities longer than 20 years demonstrate how such instruments would continue to be considered "debt." The rule also extends the regulatory capital treatment of grandfathered secondary capital to the later of 30 years from the date of issuance or January 1, 2052. This extension will align the treatment of grandfathered secondary capital with the maximum permissible maturity for any secondary capital issued by low-income credit unions under the U.S. Department of the Treasury's Emergency Capital Investment Program or other programs administered by the U.S. government.
09/01/2023	Cyber Incident Notification Requirements (NCUA)	88 FR 12811	See our Blog Post.

PROPOSED REGULATIONS

Comments Due	Rule (Agency)	Citation	Summary

RESOURCES/GUIDANCE

Guidance	Summary
Buy Now, Pay Later (CFPB)	The CFPB published a report analyzing the financial profiles of Buy Now, Pay Later borrowers. The report finds that Buy Now, Pay Later borrowers are more likely to be active users of other types of credit products like credit cards, personal loans, and student loans. They are also more likely to exhibit measures of financial distress than non-users. For example, Buy Now, Pay Later borrowers are more likely to be highly indebted or have revolving balances or delinquencies on their credit cards compared to consumers who do not use Buy Now, Pay Later products. Buy Now, Pay Later borrowers are also more likely to use high-interest financial services such as payday loans, pawn loans, and bank account overdrafts.
Public Benefits Delivery & Consumer Protection (CFPB)	The CFPB published an Issue Spotlight examining how the financial products used to deliver public benefits, like Social Security and unemployment compensation, affect individuals' ability to fully access the assistance provided through those programs. The Issue Spotlight outlines how governments often choose to deliver public benefits through financial products, particularly prepaid cards, that may subject recipients to high fees and cut into the amount of funds the consumer receives. Differences in states' decisions about how to deliver benefits can make the receipt of benefits,

	like unemployment compensation, uneven across similarly situated individuals in different states. The Issue Spotlight also highlights that inadequate customer service can leave consumers unable to rectify problems with their accounts, as well as can render them unable to access critical funds.
23-FCU-02 (NCUA)	The NCUA published 23-FCU-02 Permissible Loan Interest Rate Ceiling Extended informing federally chartered credit unions that it voted to continue the temporary 18-percent interest rate ceiling for loans made by federal credit unions. The Federal Credit Union Act generally limits federal credit unions to a 15 percent interest rate ceiling on loans. However, the NCUA Board may establish a temporary, higher rate for up to 18 months after considering certain statutory criteria. The previously approved 18-percent interest rate ceiling expires on March 10, 2023. The January NCUA Board action extends the temporary 18 percent interest rate ceiling through September 10, 2024.
Mail Theft-Related Check Fraud (FinCEN)	The Financial Crimes Enforcement Network issued an alert to financial institutions on the nationwide surge in check fraud schemes targeting the U.S. Mail. Fraud, including check fraud, is the largest source of illicit proceeds in the United States and is one of the AML/CFT National Priorities. In coordination with the United States Postal Inspection Service, FinCEN has identified red flags to help financial institutions detect, prevent, and report suspicious activity connected to mail theft-related check fraud.
Junk Fees (CFPB)	The White House released a guide for state legislatures and attorneys general on how they can take action against what it has labeled "junk fees"—a broad category of business fees that includes fees banks charge for services such as overdraft protection. The guide includes several examples of alleged junk fees across multiple industries, including hotel resort fees, rental car fees, event ticketing fees, and cable and internet fees. Included in the examples was "the banking industry's excessive and unfair reliance on banking junk fees," with the administration pointing to several examples of banks ending fees for overdraft protection amid regulatory pressure. The CFPB also published Supervisory Highlights Junk Fees Special Edition, which reports on unlawful junk fees uncovered in deposit accounts and in multiple loan servicing markets, including in mortgage, student, and payday lending. Areas included in the Supervisory Highlights include deposit accounts, auto loan servicing, mortgage loan servicing, payday and title lending, and student loan servicing. A group of five Senators have sent a letter to the Federal Reserve, OCC, FDIC, and NCUA asking them to take several steps to protect consumers from scams when using Zelle to transfer money. The letter includes that "because depository institutions currently take the position that they are under no obligation under the EFTA to make their customers whole when fraudsters use the network to steal their hard-earned money. Instead, depository institutions appear to have forced their customers to foot the bill in the vast majority of these circumstances, often relying on ambiguity over whether a payment is classified as "authorized," "unauthorized," or an "error" to avoid reimbursing customers who have been victims of fraud.
Financial Empowerment & Inclusion (FDIC)	The FDIC's March issue of its Consumer News focuses on financial empowerment and inclusion. It describes that banks should be providing various accommodations for customers with disabilities for all products and services that the bank offers.

HMDA (CFPB)	The CFPB published the 2023 HMDA Institutional Coverage Chart and 2023 HMDA Transactional Coverage Chart to help institutions determine their Regulation C reporting requirements.
HMDA (FFIEC)	The FFIEC announced that the 2022 HMDA Modified Loan/Application Registers (LAR) are now available. The modified LAR file is available for every financial institution that completed a HMDA data submission in the selected year. The modified LAR data represents the most current HMDA submission made by an institution.
CECL (NCUA)	The NCUA updated its Simplified CECL Tool for March 2023, to include the incorporation of each credit union's December 2022 net charge-offs values in its average three-year net charge-off rates, the adjustment of Weighted Average Remaining Maturity (life-of-loan) factors for recent trends, and minor technical enhancements.
Credit Card Reporting (CFPB)	The CFPB announced that it is requiring many credit card issuers to report more details about the types of credit card plans they offer on a CFPB survey, with the goal of creating a website for consumers to compare card offerings. Upgrades to the CFPB's terms of credit card plans survey are designed to increase price competition in the credit card market by allowing people to comparison shop for the best prices and products.
Bulletin 1-2023 (Nacha)	In ACH Operations Bulletin #1-2023, Nacha announced that it issued an update to its sample Written Statement of Unauthorized Debit (WSUD) to include language alerting customers of the risks of making false claims of unauthorized ACH debits to their financial institutions. Nacha is adding the following language to its sample form WSUD, and advises RDFIs that they may want to consider including similar language on the forms that they use: Any intentional attempt to obtain money from a financial institution by misrepresenting whether a transaction was authorized may result in the imposition of fines up to $1,000,000, or imprisonment up to 30 years, or both under the provisions of Federal law (18 U.S.C. §1344).
23-RA-02 (NCUA)	The NCUA published Regulatory Alert 23-RA-02 informing credit unions of their responsibility to comply with Regulation C, and HMDA reporting. Credit unions are required to collect HMDA data for mortgage loan applications processed in 2023, if: 1. The credit union's total assets as of December 31, 2022, exceeded $54 million; 2. The credit union had a home or branch office in a Metropolitan Statistical Area on December 31, 2022; 3. The credit union originated at least one home purchase loan (other than temporary financing such as a construction loan) or refinanced a home purchase loan, secured by a first lien on a one-to-four-unit dwelling during 2022; and 4. The credit union originated at least 25 covered closed-end mortgage loans in each of the two preceding calendar years (2021 and 2022) or at least 200 covered open-end lines of credit in each of the two preceding calendar years (2021 and 2022).