



## Thomson Reuters Regulatory Intelligence

### Topical Tracking Service

### **CONSUMER BANKING, MORTGAGE LENDING AND SECURITIES**

**November 2023**

The following is a selection of federal and state regulatory actions affecting the consumer banking, mortgage lending, and securities sectors for November 2023. This bulletin includes news and analysis from Thomson Reuters Latest Updates, Regulatory Intelligence, Expert Analysis, Reuters News, and other Thomson Reuters professional services publications.

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#### **CONSUMER BANKING**

##### **Recent Administrative Activity**

###### **Federal**

- [88 FR 82950-01](#), effective January 1, 2024, amends 12 CFR § 217.1 (Purpose, applicability, reservations of authority, and timing) by adding subparagraph (c)(1)(ii) relating to the applicability to certain mid-tier holding companies of insurance depository institution holding companies and adding paragraph (g) relating to the applicability to certain depository institution holding companies and treatment of subsidiary state-regulated insurers, regulated foreign subsidiaries, and regulated foreign affiliates. Amends 12 CFR § 217.10 (Minimum capital requirements) by adding new paragraph (f) relating to exemptions for certain state-regulated and Board-regulated institutions. Amends 12 CFR § 217.11 (Capital conservation buffer, countercyclical capital buffer amount, and GSIB surcharge) by adding new paragraph (e) relating to calculation alternatives for certain Board-regulated institutions. Amends 12 CFR § 238.142 (Applicability) by adding a new subparagraph (a)(3) providing an exemption for certain insurance savings and loan holding companies. Amends 12 CFR § 252.53 (Applicability)

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<sup>1</sup> This Topical Tracking Service Snapshot was compiled by members of the Thomson Reuters Risk Editorial staff.

by adding a new subparagraph (a)(3) providing an exemption for certain insurance bank holding companies. Latest Update available [here](#).

- [88 FR 83316-01](#), effective December 29, 2023, amends 12 CFR § 204.4 (Computation of required reserves) to reflect the annual indexing of the reserve requirement exemption amount and the low reserve tranche for 2024. Sets the reserve requirement exemption amount at \$36.1 million (unchanged from 2023) and the low reserve tranche at \$644.0 million (from \$691.7 million in 2023). The new low reserve tranche will apply beginning January 1, 2024. Latest Update available [here](#).
- [88 FR 83317-01](#), effective December 29, 2023, amends Regulation I, 12 CFR Pt. 209 (Issue and Cancellation of Federal Reserve Bank Capital Stock), increasing the threshold for total consolidated assets from \$12,124,000,000 to \$12,517,000,000 through December 31, 2024. Latest Update available [here](#).
- [88 FR 83318-01](#), effective January 1, 2024, amends 12 CFR Pt. 213, Supp. I (Official Staff Interpretations) and 12 CFR Pt. 1013, Supp. I (Official Interpretations) to increase the exemption threshold for consumer leases from \$66,400 to \$69,500 for 2024. Latest Update available [here](#).

#### **Colorado**

- [2023 CO REG TEXT 651217 \(NS\)](#), effective January 1, 2023, amends 12 CO ADC 2518-1:30.100 (Definitions) by modifying 5 definitions and adding 2 definitions. Amends 12 CO ADC 2518-1:30.250 (Confidentiality) by changing "county department" to "county and state departments" in subsection (A), modifying requirements in subsection (B)(7) regarding disclosures made to the at-risk adult who is the subject of the report, and revising citation references. Latest Update available [here](#).

#### **Nebraska**

- [2023 NE REG TEXT 631740 \(NS\)](#), effective November 25, 2023, makes numerous significant substantive changes to Title 45 (Banking Rules) of the Nebraska Administrative Code, by adopting, moving, revising, and repealing multiple chapters of the title. Latest Update available [here](#).

#### **Nevada**

- [2023 NV REG TEXT 542556 \(NS\)](#), effective November 9, 2023, amends NV ADC 645B.038 (Insider loans: Limitations and conditions) by incorporating requirements from NV ADC 645E.295 (Insider loans: Limitations and conditions). Repeals NV ADC 645E.295 (Insider loans: Limitations and conditions). Latest Update available [here](#).

#### **New York**

- [2023 NY REG TEXT 628473 \(NS\)](#), effective November 1, 2023, making substantive changes to its cybersecurity regulations, including adding requirements that class A companies must conduct an independent audit of their cybersecurity programs at least annually (23 NY ADC 500.2); adding that cybersecurity policies (23 NY ADC 500.3), procedures and guidelines (23 NY ADC 500.8), and risk assessments (23 NY ADC 500.9) must be approved or reviewed at least annually; adding privileged account access limitations and management requirements (23 NY ADC 500.7); adding that multi-factor authentication is required for any individual accessing any of the covered entity's information systems unless an exception applies (23 NY ADC 500.12); requiring the design and establishment of a written business continuity and disaster recovery plan (23 NY ADC 500.16); requiring electronic filing of cybersecurity events, notice of compliance, and notice and explanation of extortion payment (NY ADC 500.17); and adding other additional policy requirements, review obligations, and training. Adopts 23 NY ADC 500.24 (Exemptions from electronic filing and submission requirements). Repeals 23 NY ADC App. A (Certification of Compliance with New York State Department of Financial

Services Cybersecurity Regulations) and 23 NY ADC App. B (Notice of exemption). Latest Update available [here](#).

### **South Carolina**

- [2023 SC REG TEXT 645332 \(NS\)](#), effective November 24, 2023, amends SC ADC 15-27 (Reports of Condition) by changing the header from "Consolidated Report of Income and Expenses," by expanding the scope to include all South Carolina state-chartered banks, savings banks, savings and loan associations, and trust companies, and by requiring reports of condition on a quarterly basis within 30 days of the end of the quarter. Latest Update available [here](#).
- [2023 SC REG TEXT 645336 \(NS\)](#), effective November 24, 2023, repeals SC ADC 15-2 (Limitations and Restrictions on Borrowing by Savings and Loan Institutions). Latest Update available [here](#).
- [2023 SC REG TEXT 645338 \(NS\)](#), effective November 24, 2023, amends SC ADC 15-41 (Limitations and Restrictions on Real Estate Mortgages) by replacing the appraisal requirements with those found in the Interagency Appraisal and Evaluation Guidelines and by repealing the fire insurance requirements. Latest Update available [here](#).
- [2023 SC REG TEXT 645343 \(NS\)](#), effective November 24, 2023, repeals SC ADC 15-8 (Published Reports of Condition, Savings and Loan). Latest Update available [here](#).

### **Regulator Notices**

[CFPB issues 2023 consumer credit card market report](#) (November 2, 2023). The Consumer Financial Protection Bureau (CFPB) has issued its sixth biennial Consumer Credit Card Market Report to Congress. The report reviews developments in the consumer credit card market since the CFPB's last biennial report in 2021. The report examines trends by card type and credit score tier, but further segment consumers with the highest scores into two new groups, prime plus (720 to 799) and superprime (800 and above). In a new section, the report examines the market dynamics, concentration, and profitability of the credit card industry. It also explores several new topics including the prevalence and cost of installment plan features, the dollar value of credit card rewards, and issuer practices related to dispute resolution, minimum payments, and servicemember rate reductions. More information available [here](#).

[NCUA proposes incorporating "Second Chance" interpretive ruling into regulations](#) (November 7, 2023). The National Credit Union Administration (NCUA) has proposed incorporating its "Second Chance" Interpretive Ruling and Policy Statement 19-1 (IRPS 19-1) and the Fair Hiring in Banking Act (FHBA) into its regulations. The Federal Credit Union Act prohibits any person who has been convicted of certain criminal offenses involving dishonesty or breach of trust (a covered offense), or who has entered into a pretrial diversion or similar program in connection with a prosecution for such offense (program entry), from participating in the conduct of the affairs of an insured credit union except with the Board's prior written consent. The proposed rule to codify IRPS 19-1, along with significant changes that are consistent with the FHBA amendments to section 205(d) of the Federal Credit Union Act and the Federal Deposit Insurance Corporation's (FDIC's) comparable implementing regulations. The proposed rule would address, among other topics, the individuals and types of offenses covered by section 205(d), and the NCUA's procedures for reviewing a consent application.

[Defining larger participants of a market for general-use digital consumer payment applications](#) (November 17, 2023). The CFPB has proposed a rule to define a market for general-use digital consumer payment applications. The proposed market would cover providers of funds transfer and wallet functionalities through digital applications for

consumers' general use in making payments to other persons for personal, family, or household purposes. Comments must be submitted on or before January 8, 2024. More information [here](#).

### **Special Assessment Pursuant to Systemic Risk Determination** (November 29, 2023).

The FDIC is adopting a final rule to implement a special assessment to recover the loss to the Deposit Insurance Fund (DIF or Fund) arising from the protection of uninsured depositors following the closures of Silicon Valley Bank, Santa Clara, CA, and Signature Bank, New York, NY. The FDIC will collect the special assessment over eight quarterly assessment periods. The final rule is effective on April 1, 2024, with the first collection for the special assessment reflected on the invoice for the first quarterly assessment period of 2024 (i.e., January 1 through March 31, 2024), with a payment date of June 28, 2024.

### **Regulatory Intelligence and Reuters News**

- [\*\*New York amends cybersecurity requirements for financial services companies\*\*](#) (November 6, 2023).
- [\*\*OPINION: Are firms too focused on AML/KYC? Privacy fines outpace finance sector penalties\*\*](#) (November 6, 2023).
- [\*\*Top U.S. Fed official sees significant costs to proposed higher capital requirements\*\*](#) (November 14, 2023).
- [\*\*U.S. Treasury warns banks to beware rampant, continuing fraud schemes linked to COVID-19 relief program\*\*](#) (November 27, 2023).
- [\*\*Misconduct in U.S. financial services rears its head again; some see past mistakes repeated\*\*](#) (November 29, 2023).

### **MORTGAGE LENDING**

#### **Recent Administrative Activity**

##### **Federal**

- [\*\*88 FR 83311-01\*\*](#), effective January 1, 2024, amends 12 CFR Pt. 34, Subpt. G, App. C (OCC Interpretations) by increasing the threshold amount pursuant to 12 CFR § 34.203 for the period from January 1, 2024, through December 31, 2024, to \$32,400. Amends 12 CFR Pt. 226, Supp. I, Subpt. E (Official Staff Interpretations) by increasing the threshold amount pursuant to 12 CFR § 226.43 for the period from January 1, 2024, through December 31, 2024, to \$32,400. Amends 12 CFR Pt. 1026, Supp. I, Part 3 (Official Interpretations) by increasing the threshold amount pursuant to 12 CFR § 1026.35 for the period from January 1, 2024, through December 31, 2024, to \$32,400. Latest Update available [here](#).
- [\*\*88 FR 83322-01\*\*](#), effective January 1, 2024, amends 12 CFR Pt. 1026, Supp. I, Part 1 (Official Interpretations) by increasing the 2024 threshold amount for 12 CFR § 1026.3(b) to \$69,500. Latest Update available [here](#).

##### **Nevada**

- [\*\*2023 NV REG TEXT 542556 \(NS\)\*\*](#), effective November 9, 2023, amends Chapter 645B (Mortgage Brokers and Mortgage Agents) by changing "mortgage broker" and "mortgage banker" to "mortgage company," and "agent" to "loan originator" throughout, except in references to federal law. Amends NV ADC 645B.077 (Retention and maintenance of certain records) by changing "Association for Information and Image Management" to "Association for Intelligent Information Management." Amends NV ADC 645F.939 ("Mortgage loan" defined), NV ADC 645F.955 (Qualifications for license), NV ADC 645F.957 (Qualified employee: Designation and approval), NV ADC 645F.980 (Prohibited

acts), and NV ADC 645F.983 (Maintenance of books, accounts, records and documents) by changing "mortgage broker" and "mortgage banker" to "mortgage company," and "agent" to "loan originator" and modifying internal citations. Repeals Chapter 645E (Mortgage Bankers). Latest Update available [here](#).

## **New York**

- [2023 NY REG TEXT 628473 \(NS\)](#), effective November 1, 2023, amends 23 NY ADC 500.1 (Definitions) by adding 5 definitions and amending 7 definitions. Amends 23 NY ADC 500.2 (Cybersecurity program) by adding that a covered entity's cybersecurity program must protect nonpublic information, requiring class A companies to design and conduct independent audits of its cybersecurity program, and modifying what documentation and information regarding a cybersecurity program must be made available to the Superintendent. Amends 23 NY ADC 500.3 (Cybersecurity policy) by requiring annual approval of the written policies by a senior officer of the covered entity and modifying what areas must be covered by the cybersecurity policy. Latest Update available [here](#).

## **Texas**

- [2023 TX REG TEXT 651069 \(NS\)](#), effective November 16, 2023, amends 7 TX ADC § 2.108 (Military Licensing) requiring the OCC to process residential mortgage loan originator applications from qualifying military service member applicants or verify licenses issued in another jurisdiction within 30 days and changing "military spouse" to "military service member or military spouse" or "member or spouse." Latest Update available [here](#).
- [2023 TX REG TEXT 651072 \(NS\)](#), effective November 19, 2023, amends 7 TX ADC § 81.103 (Licensing of Military Service Members, Military Veterans, and Military Spouses) by modifying the requirements for expedited review and processing of an originator license application submitted by a military service member, military veteran, or military spouse, revising the temporary authority provisions to include military service members, changing "residential mortgage loan originator" to "originator," and changing "education training" to "education." Latest Update available [here](#).

## **Regulator Notices**

[HUD extends comment period regarding updates to HUD's Single Family Housing Policy Handbook](#) (November 14, 2023). HUD is extending the comment period regarding updates to its Single Family Housing Policy Handbook. The comment deadline was extended because the previous notice omitted the necessary language to allow for comment submission. The new comment deadline is December 14, 2023.

## **Regulatory Intelligence and Reuters News**

- [CFPB report: States close nonbank community reinvestment gap](#) (November 3, 2023)

## **SECURITIES**

### **Regulator Notices**

[Short position and short activity reporting by institutional investment managers](#) (November 1, 2023). The Securities and Exchange Commission (SEC) has adopted a new rule designed to provide greater transparency through the publication of short sale-related data to investors and other market participants. Under the new rule, institutional investment managers that meet or exceed certain specified reporting thresholds are

required to report, on a monthly basis using the related form, specified short position data and short activity data for equity securities. In addition, the Commission is adopting an amendment to the national market system plan governing the consolidated audit trail to require the reporting of reliance on the bona fide market making exception in the Commission's short sale rules.

**FINRA notifies members of joint CISA & FBI cybersecurity advisory** (November 16, 2023). Due to increased reports related to cyber incidents occurring at FINRA member firms which have been attributed to specific threat actors, the Cyber and Analytics Unit (CAU) within FINRA's Member Supervision Program is highlighting a recent joint Cybersecurity and Infrastructure Security Agency (CISA) and Federal Bureau of Investigation (FBI) Cybersecurity Advisory. Scattered Spider, the subject of the CISA/FBI Cybersecurity Advisory, is a threat actor that has also been linked to BlackCat/ALPHV ransomware. FINRA member firms should consider enhancing end-user awareness in response to this Alert, which may include communicating with employees about the threat, explaining the importance of employee vigilance, and ensuring employees understand the risks posed by non-compliance. More information available [here](#).

### **Regulatory Intelligence and Reuters News**

- **IA BRIEF: A dynamic risk assessment is crucial to upcoming U.S. SEC adviser exams** (November 10, 2023).
- **U.S. regulators step up Reg BI enforcement sharply as cases triple over last year; individuals, firms increasingly facing large fines** (November 29, 2023).

(Anna Deel, Landon Larivee, Laine Lester, Steven Martino, and Andrew Whitehead, Regulatory Intelligence)

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