



2023 Year-End Regulatory Reflections

And What's to Come in 2024

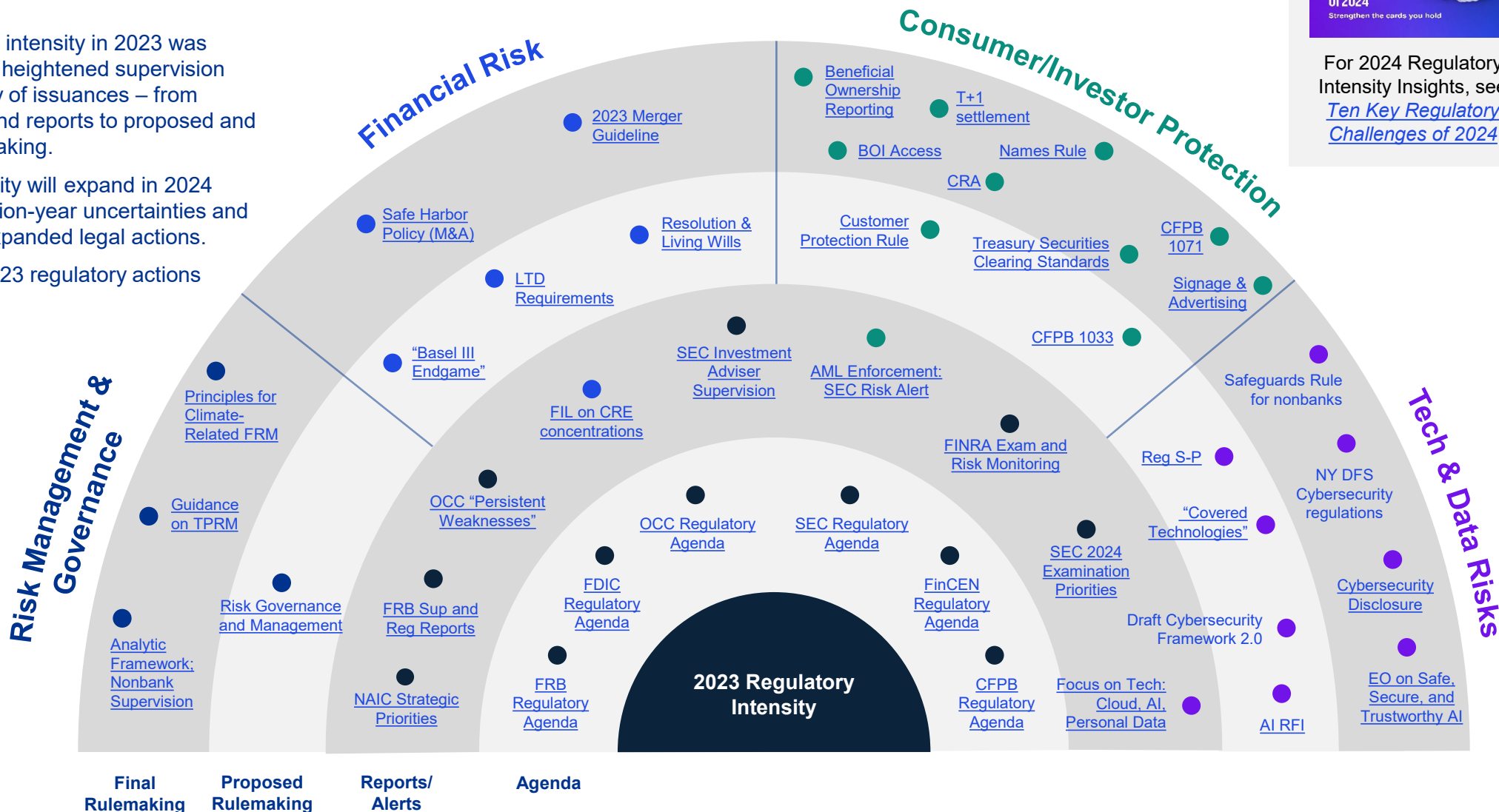


2023 Regulatory Summary

Regulatory intensity in 2023 was marked by heightened supervision and a flurry of issuances – from agendas and reports to proposed and final rulemaking.

This intensity will expand in 2024 given election-year uncertainties and pending/expanded legal actions.

Notable 2023 regulatory actions include:



For 2024 Regulatory Intensity Insights, see [Ten Key Regulatory Challenges of 2024](#)

Regulatory Intensity

High regulatory intensity and rulemakings particularly in the areas of risk management/governance, financial risk, consumer/investor protections, and tech/data risks (denoted in following tables). Key 2023 reports/alerts/agendas include:

Stage	Agency	Action/Summary	KPMG Regulatory Alert
Reports/ Alerts	FINRA	Examination and Risk Monitoring Report: Covers 24 topics across five key areas: Financial Crimes, Firm Operations, Communications and Sales, Market Integrity, and Financial Management	Examination and Risk Monitoring
	FRB	Policy statement to promote a level playing field for FRB-supervised banks	--
		Supervision and Regulation Report; Financial Stability Report	Fall 2023 Reports Spring 2023 Reports
	NAIC	Strategic priorities to “advance state-based solutions on current challenging issues” through “close collaboration” and “coordinated action” among the state insurance regulators.	Insurance Strategic Priorities
	OCC	Policies and procedures when considering supervisory and enforcement actions against banks that exhibit or fail to correct persistent weaknesses	Bank Supervision: “Persistent Weaknesses”
	SEC	Risk Alert on its approach for selecting SEC-registered investment advisers for examination and determining the scope of risk areas to examine	Investment Adviser Supervision
Agenda	Multi-agency	Regulatory Agenda: key Federal banking regulators (FRB, FDIC, OCC, CFPB, FinCEN)	Fall Regulatory Agendas Spring Regulatory Agendas
	SEC	Regulatory Agenda: Key areas of coverage include climate risk, cybersecurity, Private Fund Advisers, Form PF amendments, human capital, board diversity, and investor protections.	Fall Regulatory Agenda Spring Regulatory Agenda
		Exam Priorities: Identifying “significant” focus areas (key unique or emerging risks) and priorities by type of market participant.	2024 Examination Priorities 2023 Examination Priorities

Risk Management & Governance

Focus on heightened risk management standards at the enterprise level and across risk pillars, including demonstrable risk management practices, including issues management, risk governance and accountability, and the sustainability of risk functions. Key 2023 rulemakings and other actions include:

Stage	Agency	Action/Summary	KPMG Regulatory Alert
Final Rulemaking	Interagency	Guidance on third-party risk management (TPRM) - the federal banking regulators (FRB, FDIC, and OCC).	Third-Party Risk Management
		Principles for climate-related financial risk management - the federal banking regulators (FRB, FDIC, and OCC).	Final Principles for Climate-Related Financial Risk Management
	DOJ	Initiatives to reinforce corporate compliance, cooperation, and accountability: pilot compensation incentives and “claw-backs”; voluntary self-disclosure policy; use of personal devices.	Initiatives on Compensation, Voluntary Self-Disclosure
		“First significant changes” to the Criminal Division’s Corporate Enforcement Policy since 2017.	Criminal Division Corporate Enforcement Policy
	FRB	Instructions, including risk management practices, for the banks participating in the pilot climate scenario analysis exercise.	Pilot Scenario Analysis and Risk Management Practices
	FSOC	Analytic framework to 1) identify, 2) assess, and 3) respond to potential financial stability risks.	Financial Stability, Nonbank Supervision: Final Guidance
		Guidance outlining the process by which the FSOC determines (or “designates”) whether to subject a nonbank financial company to supervision and prudential standards by the FRB.	
	SEC	Money market fund reforms intended to improve resilience, including requirements for liquidity, fees, and reporting.	Money Market Fund Reforms
	State (California)	New climate reporting laws (SB-253, SB-261) that will require large businesses to report greenhouse gas emissions and climate-related financial risk.	GHG Emissions and Risk Reporting
	White House	Executive Order “Revitalizing Our Nation’s Commitment to Environmental Justice for All” reinforcing and building on previous Orders and initiatives.	Environmental Justice Executive Order

Risk Management & Governance (continued)

Stage	Agency	Action/Summary	KPMG Regulatory Alert
Proposed Rulemaking	FDIC	Corporate governance and risk management guidelines, enforceable under safety and soundness authority, that would set expectations for board governance and board and management risk management responsibilities.	Expanded Risk Governance and Management
	PCAOB	Proposed amendments related to auditors' responsibilities regarding a company's noncompliance with laws and regulations, including fraud.	Noncompliance with Laws and Regulations, Including Fraud: PCAOB Proposal
	SEC	Amendments to the broker-dealer customer protection rule that would require certain broker-dealers to compute customer and broker-dealer reserve deposit requirements on a daily rather than weekly basis (see also in Consumer/Investor Protection).	Customer Protection Rule Proposal
Reports/ Alerts	FIO	Published report on insurance supervision and regulation of climate-related risks.	--

Financial Risk

Escalating regulatory attention to firms' ability to manage liquidity, capital, credit, M&A activity and portfolio growth including risk calculations, stress testing, and resolution planning.

Key 2023 rulemakings and other actions include:

Stage	Agency	Action/Summary	KPMG Regulatory Alert
Final Rulemaking	DOJ	Safe Harbor Policy for voluntary self-disclosures made in connection with mergers and acquisitions.	Safe Harbor Policy for Voluntary Self-Disclosures in M&A
	DOJ/FTC	"2023 Merger Guidelines" outlining "factors and frameworks" for reviewing M&A transactions for compliance with federal antitrust laws.	Antitrust: DOJ/FTC 2023 Merger Guidelines
Proposed Rulemaking	Interagency	"Basel III Endgame" revisions to the capital requirements for banks with at least \$100 billion in total assets and smaller firms with "significant" trading activities (federal banking regulators - FRB, OCC, FDIC).	"Basel III Endgame" & GSIB Capital Surcharges
		Long-term debt (LTD) requirements that would apply to all banks and BHCs with total assets of \$100 billion or more (federal banking regulators - FRB, OCC, FDIC).	Long-Term Debt Requirements
		Guidance for domestic and foreign Category II and III banking organizations that would outline expectations for the development of resolution plans, or "living wills" (FRB, FDIC).	Resolution & Living Wills
	FDIC	Rule that would require insured depository institutions with total assets of \$50+ billion to periodically submit resolution plans	Resolution & Living Wills
	SEC	New rule that would establish requirements for covered clearing agency recovery and wind-down plans, plus amendments that would address risk-based margin requirements.	Clearing Agency Risk Management and "Living Wills"
Reports/ Alerts	FDIC	Report outlining the history and objectives of the U.S. deposit insurance system, policy tools to mitigate possible unintended consequences created by deposit insurance, and considerations for reforms given technology advances.	Deposit Insurance Reform Options
		Financial institution letter on commercial real estate concentrations.	Commercial Real Estate: Expanded Regulatory Focus
Agenda	White House	Encouragement for federal banking agencies to act under existing authorities to 1) reinstate rules for Category IV banks covered by enhanced prudential standards, capital and liquidity requirements, and resolution planning, 2) strengthen supervisory oversight, and 3) expand long-term-debt requirements.	Bank Regulatory Change

Consumer/Investor Protection

Multi-agency focus on consumer/investor protections, including protections against ‘threat actors’ (perpetrators of fraud and financial crime) and promotion of fairness principles, including access, treatment, and product risks. Key 2023 rulemakings and other actions include:

Stage	Agency	Action/Summary	KPMG Regulatory Alert
Final Rulemaking	Interagency	CRA (Community Reinvestment Act) rule updating the regulatory framework for assessing banks' performance in meeting the credit needs of their communities; recognizing “branchless banking”, clarifying CRA-eligible activities; metrics/benchmarks and processes.	Community Reinvestment Act: Interagency Final Rule
	CFPB	“Section 1071” small business lending rule requiring governing data collection and reporting on applications for credit.	CFPB Small Business Lending Data (Section 1071)
	FDIC	Deposit insurance signage and advertising requirements.	FDIC Deposit Insurance Signage and Advertising
	FinCEN	Access to beneficial ownership information.	FinCEN CTA: Beneficial Ownership Information Access
		Use of identifiers in beneficial ownership information.	-
	SEC	Shortened standard settlement cycle for most broker-dealer transactions from two business days (T+2) to one (T+1) after the trade date.	SEC final rule for T+1 settlement cycle
		Multiple new rules to enhance the regulation of private fund advisers relating to quarterly statements, independent audits, and fairness opinions as well as restricted activities and preferential treatment.	SEC Private Fund Adviser Reforms: Final Rules
		Amendments to the Names Rule to prevent deceptive and misleading fund names.	Names Rule: SEC Final Amendments
		New Form PF reporting requirements for private fund advisers.	Form PF
		Disclosure requirements for repurchases of issuer’s securities, also referred to as “buybacks”.	Share Repurchase Disclosures
		Reporting and publication of specific information regarding securities lending transactions.	Reporting of Securities Loans
	Form SHO reporting requirements for certain institutional investment managers short position and short activity data.	Short Sale Reporting	

Consumer/Investor Protection (continued)

Stage	Agency	Action/Summary	KPMG Regulatory Alert
Final Rulemaking	SEC	Filing deadlines and disclosure requirements for beneficial ownership reports filed on Schedules 13D and 13G.	Beneficial Ownership Reporting
		Standards for covered clearing agencies of U.S. Treasury securities, including risk management, customer protections, clearing/settlement.	U.S. Treasury Securities Clearing Agency Standards: SEC Final Rule
Proposed Rulemaking	CFPB	Adjustments to credit card late fees that would “better ensure” fees are “reasonable and proportional” to the late payment	CFPB Proposal on Credit Card Late Fees
		“Section 1033” open banking rule intended to give consumers more control over their personal financial data.	“Open Banking” 1033 Personal Financial Data Rights
		Proposed definition for a “general-use digital consumer payment applications” market.	Supervision of Big Tech & Wallet/Payment Providers
	DOL	Update to the definition of an investment advice fiduciary under ERISA.	
	FTC	Prohibitions against hidden and falsely advertised fees (plus additional multi-agency actions to address “junk fees”).	“Junk Fees” Actions
	SEC	Expanded definition of “assets” under the Custody Rule that would include any client assets for which an adviser has custody.	SEC Proposes Amendments to the Custody Rule
		Increase the frequency with which broker-dealers compute the net cash owed to customers and to other broker-dealers from weekly to daily (see also in Risk Management and Governance)	SEC Customer Protection Rule Proposal
Prohibitions against pricing for agency-related orders and to require disclosures around pricing tiers and membership.		Volume-based Transaction Pricing: SEC Proposed Rule	

Consumer/Investor Protection (continued)

Stage	Agency	Action/Summary	KPMG Regulatory Alert
Reports/ Alerts	FTC	Annual Data Book report outlining information received from consumers regarding their experiences with fraud, identity theft, and other consumer protection-related issues.	Fraud, Identity Theft, and Other Scams
	OFAC	“Expanded and intensified” sanctions against the Russian Federation.	Russia-Ukraine War: Expanded U.S. Sanctions, FATF Action
	SEC	Examinations risk alert outlining obligations of broker-dealers under Regulation Best Interest.	SEC Regulation Best Interest
		Examinations risk alert focused on the Marketing Rule including testimonials, endorsements, third-party ratings, and Form ADV.	SEC Examinations Risk Alert: Marketing Rule
		Examinations risk alert presenting exam observations of key anti-money laundering requirements across the broker-dealer industry.	AML Enforcement: SEC Risk Alert
Treasury	Fact sheet outlining actions to prevent and disrupt illicit finance and national security threats posed by corruption.	Illicit Finance & Corruption: Treasury Actions	

Tech & Data Risks

Calls for “whole of government” actions for AI, cyber, and privacy protections. Key 2023 rulemakings and other actions include:

Stage	Agency	Action/Summary	KPMG Regulatory Alert
Final Rulemaking	FTC	Amendments to Safeguards Rule to require non-bank financial institutions to report data security breaches.	--
	SEC	Final rule and amendments related to cyber risk management, strategy, governance, and incident reporting.	Public Company Cybersecurity Risk Management, Strategy, Governance and Incident Disclosure
	State (NY DFS)	Amendments to cybersecurity regulations (including controls, notification requirements, and risk assessments).	--
	White House	Executive Order on AI calling for AI risk management actions/standards for privacy, security, consumer/worker protections, and innovation.	Executive Order on Safe, Secure, and Trustworthy AI
Proposed Rulemaking	Interagency	Quality control standards for automated valuation models (AVMs) that would be used by mortgage originators and secondary market issuers.	Interagency Proposals: Automated Valuation Models; Reconsideration of Value
	CFPB	Proposal to supervise “larger participants” in the nonbank market for “general-use consumer digital payment applications” (see also in Customer/investor Protections).	CFPB Proposal to Supervise Big Tech and Other Wallet/Payment Providers
	DOC	Request for comment on AI accountability measures and policies with a focus on how to provide “reliable evidence to external stakeholders”.	Ensuring Trust in AI: Commerce Department Request for Comment
	FRB	Amendments to the interchange fee cap and methodology.	Debit Interchange Fee Cap: FRB Reg II Proposed Amendments

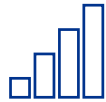
Tech & Data Risks (continued)

Stage	Agency	Action/Summary	KPMG Regulatory Alert
Proposed Rulemaking	NIST	Draft Cybersecurity Framework 2.0	--
		Request for information to develop guidelines for evaluation and red-teaming; consensus-based standards.	AI Actions: NIST RFI
	SEC	Amendments to expand and update Regulation SCI (Systems Compliance and Integrity) to enhance cybersecurity preparedness and resiliency.	SEC Proposal to Expand Regulation SCI
		Cybersecurity risk management, policies and procedures, and incident reporting for “Market Entities”.	Cyber Risk Management for Market Entities
		Amendments to Regulation S-P intended to enhance privacy protections by requiring an incident response program to address unauthorized access to or use of customer information.	SEC Proposes Amendments to Regulation S-P
		Requirement for broker-dealers and investment advisers to identify existing/potential conflicts of interest arising from use of “covered technologies”.	“Covered Technologies” and Conflicts of Interest: SEC Proposal
Reports/ Alerts	Interagency	Joint statement on enforcement/supervision of “automated systems”.	Enforcement/Supervision to “Automated Systems”
	FTC	Request for information on business practices of cloud service providers and potential impacts on competition and data security.	Focus on Tech: Digital Advertising, Cloud
		Policy statement on potential violations of prohibitions against UDAP regarding the collection and use of biometric information.	Biometric Information: FTC UDAP
	Treasury	Report on the adoption of cloud services in the financial services sector.	Focus on Tech: Cloud, AI, Personal Data
	White House	National Cybersecurity Strategy calling for public/private collaboration along five pillars.	National Cybersecurity Strategy

Ten Key Regulatory Challenges of 2024

Strengthen the Cards You Hold

Regulatory intensity, announced in 2022 and felt in 2023, will hit with full-force in 2024, with complexity and impacts across all areas of the business. What's coming?



A return to heightened risk standards

Demonstrate sustainability



Prudential regulators "level-up" expectations

Show strength and resiliency



Data, models, and "model-like" risks gain focus

Drive security, privacy, and fairness



Strong supervisory and enforcement action

Prove accountability and stakeholder trust



"Old regulations apply"

even to new areas



Ten Key Regulatory Challenges of 2024

Contact



Amy Matsuo
Principal and National Leader
Regulatory Insights
amatsuo@kpmg.com



Some or all of the services described herein may not be permissible for KPMG audited entities and their affiliates or related entities.

© 2024 KPMG LLP, a Delaware limited liability partnership and a member firm of the KPMG global organization of independent member firms affiliated with KPMG International Limited, a private English company limited by guarantee. All rights reserved.

The information contained herein is of a general nature and is not intended to address the circumstances of any particular individual or entity. Although we endeavour to provide accurate and timely information, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation.

The KPMG name and logo are trademarks used under license by the independent member firms of the KPMG global organisation.