Ten Key Regulatory Challenges of 2023

Strengthening “weak links”
Ten Key Regulatory Challenges of 2023

Regulators are relentlessly pursuing what they perceive to be “weak links” within risk programs and coverage. Regulatory agencies in 2023 will continue executing against their broad and ambitious agendas. Expect increases across supervision, enforcement, and investigations under both old and new regulations — even with a heightened discord in public policy and increasing judicial challenges to regulatory authority.

On behalf of KPMG Regulatory Insights, I am delighted to issue our Ten Key Regulatory Challenges of 2023.

— Amy Matsuo, Principal and Leader
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Source: KPMG Regulatory Insights
Regulatory scrutiny and enforcement activities will increase. Examinations and investigations under existing regulations will increase in scope coverage as regulatory “perimeters” expand via established jurisdictional authorities. Divergences and debate on jurisdictional authorities will continue across federal, state, and global regulations and frameworks – exacerbated by social and political divides as well as a heightened value to “regulatory democratization.”

Supervisory activity will remain fast-paced and dynamic, amid global economic transition and geopolitical developments. It is more important than ever to stay current on regulatory and industry trends, maintain open and constructive regulatory interactions, embed accountability and responsiveness, and keep stakeholders up to date. Focus on execution, emerging risks, and prompt escalation of concerns to demonstrate management awareness and ability to separate out what is significant from the “noise.”

— Jackie LiCalzi, Managing Director and Global Head of Regulatory Relations, Morgan Stanley
Call to Action…

- Ensure effective current and emerging regulatory tracking and inventory
- Dynamic mapping of regulations and regulatory expectations to risk assessments and to risk controls
- Development and execution of “regulatory routines”, inclusive of process automation and data analysis for consistency and trends (including for regulatory requests and corporate responses)
- Demonstrable enhancements to ethics, compliance and culture/conduct incentives and deterrents

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Amid continued socio-political discordance, there is increasing need for climate and sustainability risk management, controls, and governance, inclusive of quantitative analysis.

From a compliance perspective, ESG considerations are rapidly evolving. To address this, and to the extent possible, we are integrating ESG into our existing compliance program and processes. This gives us the flexibility we need to meet our clients’ goals while maintaining the long-standing integrity of our platform.

— Una Neary, Global Chief Compliance Officer at BlackRock
Call to Action…

- Ensure consistency across mandatory vs voluntary reporting and disclosures
- Integrate climate risks into governance and risk management frameworks
- Develop initial assumptions and models for climate risk scenario analysis
- Factor potentially disproportionate impacts into decision-making

KPMG Thought Leadership:
Regulatory Insights, Regulatory Alerts:

- Climate Risk: FRB pilot scenario analysis
- Update: Inflation Reduction Act
- Climate Risk: Insurance data collection; FSB progress reports
- Insurance Risks: Compliance with NY DFS climate guidance
- Climate Risk: SEC’s Climate Disclosures Proposal
- OCC principles for large bank climate risk management

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Transparency & Reporting

Increase of stakeholder pressure for increasingly transparent and real-time processes, reporting/disclosures, and voice of the customer

Compliance and reporting requirements constantly evolve – sometimes in dramatic ways. Staying ahead of the curve is expected by regulators, as well as by critical stakeholders: investors, customers, and employees. Maintaining stakeholder trust and meeting their expectations is central to the work we do. That’s why even when regulators don’t require a change, it’s imperative to always look for ways to raise the bar organically in our processes

— Brad Watkins, Chief Financial Officer, Oppenheimer

Source: KPMG Regulatory Insights
Call to Action…

- Prioritize and embed fairness across the full customer journey
- Execute centralized processes; streamline and simplify all customer-focused communications
- Assess requirements of potential reg changes against skill sets, data sets, and controls framework; evaluate gaps and develop a remediation plan
- Ensure data quality and integrity controls between digital platforms and surveillance architecture at critical data handoff points

KPMG Thought Leadership:
Regulatory Insights, Regulatory Alerts:

- Market structure: SEC remarks on potential updates
- Investor Protections: SEC proposed Names Rule and ESG Investment Practices Disclosure
- Cybersecurity: SEC Proposals for Public Company Reporting, Disclosures
- Short Sales: SEC proposed disclosures
- Private Funds: Proposals to enhance investor protections
- Form CRS disclosures: SEC staff statement

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Privacy and Data Security will continue to be a growing compliance and regulatory concern that will challenge organizations with finding innovative ways to safeguard customer, clients, and employees’ sensitive and personal identifiable information. The very nature of our business, and our economy, is being transformed by technological advancements and social-economic trends. Technology-enabled innovations have emerged to offer simpler products and streamlined customer experience. This evolution will present challenges, with sophisticated Cyberattacks, that will continue to challenge market participants, legislators, and regulators alike, with developing the necessary controls, safeguards, and accountability in the way organizations secure and manage customer data.

— Michael Blackshear, SVP Chief Compliance & Privacy Officer | Head of Diversity, Equity, & Inclusion, Ryan Specialty
Data & Cybersecurity

Call to Action…

Drive improved integration of data management, cybersecurity, and privacy programs to:

- Build a practical and defensible framework for scoping these programs that considers regulatory obligations and the organization’s business needs
- Share a common view of what data and information assets are critical to the organization
- Coordinate efforts on how best to manage associated risks
- Measure and report upon the effectiveness of these programs and residual risk exposure for the organization in a consistent and integrated way

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KPMG Thought Leadership:

Regulatory Insights, Regulatory Alerts:

- CFPB Proposals for Section 1033, Personal Financial Data Rights
- Data Retention and Deletion: Increasing Regulatory Expectations
- Cybersecurity: SEC Proposal for Adviser/Fund Risk Management
- Cybersecurity: SEC Reg SCI Proposal, Future Considerations
- Cyber incident notifications
- FFIEC guidance on systems authentication and access

Regulatory Insights, POV

- Enhancing the cybersecurity risk framework
- Regulatory Scrutiny of Technology and Data
Use of technology suppliers, cloud environments, and remote work technologies, present risk management, resiliency and threat intelligence risks.

Our governance and risk management around key areas, such as our public communications, our customers’ data and our company’s technology and infrastructure is one of our highest priorities and of great strategic importance. Even as existing and emerging risks increase, we look to continuously improve our control environment while demonstrating our ability to address critical challenges – it is a commitment we prioritize and focus on with diligence every day.

— Karen Nelson, Senior Vice President and Global Chief Compliance Officer, AIG
Call to Action…

- Set criticality standards and methodology
- Measure asset risk exposure
- Provide transparency to board/management
- Automate security incident escalation and response; build feedback loops
- Clearly delineate responsibilities

KPMG Thought Leadership:

Regulatory Insights, Regulatory Alerts:

- Third party risk management: SEC Investment Adviser Proposal
- Examination and Risk Monitoring: FINRA 2022 Report
- Regulatory focus on cloud computing
- Third-party risk management

Regulatory Insights, POV

- Regulatory Scrutiny of Technology and Data

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Safety and soundness will continue to be paramount assessment, particularly amid changing economic environment – expect capital changes, a focus on credit risk and the need to demonstrate compliance with key effective dates.

Developments on the prudential front will quicken with the release of the final Basel III ‘endgame’ rule draft. Along with this, updates to the capital and leverage ratio regimes for large banks are also likely to be acted upon in 2023. Supervisory expectations on climate risk will continue to intensify related to data and risk management practices, while societal elements such as fairness and inclusion will gather pace, with modernization of the Community Reinvestment Act likely.

— Christopher Wolfe, Managing Director, North American Banks, Fitch Ratings
Call to Action…

• Conduct analytics to assess exposure to rate index tied loans
• Assess or reassess the validity of credit rating models and demonstrate/document adherence to risk rating policies
• Assess CRE office exposure to increasing vacancies and likely declining collateral values based on rising cap rates.
• Prepare and quantify new capital requirement impacts
• Improve operational efficiencies (speed/cost) for stress test runs
• Softly land into the next EPS requirements

KPMG Thought Leadership:
Regulatory Insights, Regulatory Alerts:

- Large Bank Resolution: FRB, FDIC Joint ANPR
- Transition away from LIBOR
- LIBOR Transition: Anticipate supervisory findings and actions

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Acting in concert with the Administration’s strategies and directives to promote equity, fairness, and inclusion, federal financial service regulators and state attorneys general have expanded their bank and nonbank supervisory lens on principles of fairness and customer/investor protections to encompass the “whole of the consumer,” focusing on impacts, outcomes, and DEI concerns at all touchpoints.

The marked increase in supervisory focus of ‘fairness’ goes well beyond the traditional areas. We certainly expect that trend to continue.

— Kieran Fallon, Chief Risk Officer, PNC

Source: KPMG Regulatory Insights
Call to Action…

• Embed fairness controls across all consumer/retail products and services
• Prioritize and embed fairness across the full customer journey
• Execute centralized processes; streamline and simplify all customer-focused communications
• Enhance complaint, claims and dispute management processes, technology, and data analytics
• Set clear, measurable DEI goals, develop metrics and monitoring program, and factor into management accountability
• Evolve the CMS (across lines) using a DEI lens, including revisiting the inputs/weightings into risk assessments and new product and service reviews/approvals—all to consider inclusion, access, tangible benefit, and consistent/ equitable outcomes

KPMG Thought Leadership:
Regulatory Insights, Regulatory Alerts:

• Consumer and Investor Fees: SEC, CFPB, and FTC Focus
• Focus on small business is getting “big”
• Supervisory focus on overdraft practices
• Diversity, Equity, and Inclusion: SEC’s Diversity Assessment Report
• Inclusion: Community Reinvestment Act Proposal
• CFPB expands anti-discrimination focus
• Complaints management & FCRA compliance: CFPB report & bulletin

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Fraud & Financial Crime

Increasing regulations, supervision & enforcement as regulators look to ensure both national security and consumer protections

With the ever-changing environment – regulatory, geopolitical, economic, financial crime, innovation - fintech and payments companies need to ensure they are protecting their customers by combating fraud, money laundering, and related financial crimes on their platforms. Companies should consider ways to responsibly leverage technology and data to monitor activity, coupled with a deep focus on customer experience – being proactive and identifying trends, and instilling a strong culture of doing the right thing.

— Fiachr O’Neill, Chief Risk & Compliance Officer, PayPal

Source: KPMG Regulatory Insights
KPMG Thought Leadership:
Regulatory Insights, Regulatory Alerts:

- Financial Crime: FinCEN final rule on beneficial ownership
- U.S Actions to Russia-Ukraine War: OFAC Guidance on Russian Oil Price Cap
- 2022 National Strategy for Combating Terrorist and Other Illicit Financing
- Special Alert | AML/CFT priorities

Call to Action…
- Add analytics and automation to client onboarding
- Eliminate antiquated technology
- Establish a mature conduct risk program
- Strengthen controls in regulatory focal areas (FinCEN priorities)

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Expanded use of digital payments and digital assets increase the need for defined regulatory authority around key risk areas—all companies in digital must ensure effective controls to mitigate these risks.

The ever-evolving risk and regulatory landscape means that companies must constantly remain well-informed, nimble and measured. They must look to address these new and emerging risks within appropriate risk appetites and via a robust control environment. They also must ensure clear and consistent reporting to a myriad of stakeholders and across a varying (and growing) set of risks.

— Nancy Luquette, Chief Risk Officer, S&P Global
Call to Action…

- Develop capability assessments for digital asset product offerings and operations, as well as for risk and compliance frameworks adequate for the proper licensing, registration, issuance, and/or use of digital assets
- Establish and enhance internal risk policies, procedures, and controls for digital assets and payments, including analyzing risk profiles, customer due diligence (KYC) operations, BSA audit programs, and AML/CFT programs
- Produce actionable and relevant digital asset information for board and senior management reporting
- Understand how data is being used and monetized and whether any behavioral targeting may be inconsistent with customer expectations
- Evaluate existing regulatory change management framework and ensure integration of appropriate risk partners in strategy discussions, development, and regulatory approvals, as needed

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KPMG Thought Leadership:
Regulatory Insights, Regulatory Alerts:

- Crypto and Digital Assets: FSOC, NY Fed Reports on Financial Stability Implications
- Real-Time Payments: FedNow Service to launch mid-2023
- Crypto and Digital Assets: Increasing regulatory momentum
- Cryptocurrency activities
- Virtual assets and related providers | Updated FATF guidance

Regulatory Insights, POV

- Assessing crypto and digital asset risks
Across all regulatory challenge areas, the importance of risk management and avoidance of “risk complacency” is vital to remaining in compliance with evolving regulatory landscapes and ensuring resiliency.

In today’s dynamic and ever-changing environment, new risks are constantly identified. Because of this, it is very easy and natural to focus our energy and resources on the hot topic of the moment. While it is important that we quickly assess the risk of these emerging threats, we must not lose sight of the basics. This will help ensure we maintain the effectiveness and integrity of our foundational risk and control environment.

— Kandace Heck, Chief Audit Executive, US Bank
Call to Action…

• Assess board and executive governance structure, skills and composition
• Develop and formalize board composition /education program to address critical and emerging risks
• Ensure demonstrable board and executive management critical challenge
• Actively surveil and mitigate conflicts of interest and conduct risks, particularly in areas of “new” (digital adoption, models/AI/ML, etc.)
• Evaluate existing supervision and control testing coverage; explore methods to increase coverage (automation, methodology, etc)
• Invest in automation, analytics, and process efficiencies
• Appropriately position, scale, and reward risk management

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KPMG Regulatory Insights

We hope that you have enjoyed our insights in this publication and invite you to explore these and other timely regulatory topics as captured in our published thought leadership.

KPMG Regulatory Insights is the thought leader hub for timely insight on risk and regulatory developments. Our insights and perspectives help to inform our clients, and offer actions to take, as they anticipate and manage risks and regulatory change across the U.S. regulatory landscape. In collaboration with professionals across the firm’s global regulatory practices, we keep a current pulse on evolving and emerging supervisory, regulatory, and enforcement themes and trends.

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Regulatory Alerts
Quick hitting summaries of specific regulatory developments and perspectives on potential impacts for financial services firms.

Washington Report 360
A weekly newsletter covering legislative and regulatory developments affecting financial services firms—in 360 words or less.
## Defined terms and abbreviations

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<th>Acronym</th>
<th>Definition</th>
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<tr>
<td>AG</td>
<td>Attorney general</td>
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<td>AI</td>
<td>Artificial intelligence</td>
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<td>AML</td>
<td>Anti-money laundering</td>
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<td>ANPR</td>
<td>Advance Notice of Proposed Rulemaking</td>
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<td>AVM</td>
<td>Automated valuation methodologies</td>
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<td>BCBS</td>
<td>Basel Committee on Banking Supervision</td>
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<td>BNPL</td>
<td>Buy Now, Pay Later</td>
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<td>BSA</td>
<td>Bank Secrecy Act</td>
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<td>CBDC</td>
<td>Central bank digital currency</td>
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<td>CCAR</td>
<td>Comprehensive Capital Analysis and Review</td>
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<td>CCPA</td>
<td>California Consumer Privacy Act</td>
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<td>CDD</td>
<td>Customer due diligence</td>
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<tr>
<td>CDE</td>
<td>Critical OTC derivatives data elements</td>
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<tr>
<td>CECL</td>
<td>Current Expected Credit Losses (methodology)</td>
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<td>CFPB</td>
<td>Consumer Financial Protection Bureau</td>
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<td>CFT</td>
<td>Countering the financing of terrorism</td>
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<tr>
<td>CFTC</td>
<td>Commodities Futures Trading Commission</td>
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<td>CISA</td>
<td>Cybersecurity and Infrastructure Security Agency</td>
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<td>CMS</td>
<td>Compliance management system</td>
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<td>CPRA</td>
<td>California Privacy Rights Act</td>
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<tr>
<td>CRA</td>
<td>Community Reinvestment Act</td>
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<tr>
<td>CRE</td>
<td>Commercial real estate</td>
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<td>DeFi</td>
<td>Decentralized finance</td>
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<td>DEI</td>
<td>Diversity, Equity, and Inclusion</td>
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<td>DEP</td>
<td>Digital engagement platforms</td>
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<td>DOJ</td>
<td>Department of Justice</td>
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<td>EFRAG</td>
<td>European Financial Reporting Advisory Group</td>
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<td>EFTA</td>
<td>Electronic Fund Transfer Act</td>
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<td>ESG</td>
<td>Environmental, Social, and Governance</td>
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### Acronym Definitions

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<th>Acronym</th>
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<tr>
<td>FATF</td>
<td>Financial Action Task Force</td>
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<td>FCRA</td>
<td>Fair Credit Reporting Act</td>
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<td>FDIC</td>
<td>Federal Deposit Insurance Corporation</td>
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<td>FinCEN</td>
<td>Financial Crimes Enforcement Network</td>
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<td>FINRA</td>
<td>Financial Industry Regulatory Authority</td>
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<td>FRB</td>
<td>Federal Reserve Board</td>
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<td>FTC</td>
<td>Federal Trade Commission</td>
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<td>GHG</td>
<td>Greenhouse gas</td>
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<td>ISSB</td>
<td>International Sustainability Standards Board</td>
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<td>IT</td>
<td>Information technology</td>
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<td>KYC</td>
<td>Know your customer</td>
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<td>LIBOR</td>
<td>London Inter-bank Offered Rate</td>
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<td>LMI</td>
<td>Low- and middle-income</td>
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<tr>
<td>M&amp;A</td>
<td>Mergers and acquisitions</td>
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<td>ML</td>
<td>Machine learning</td>
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<tr>
<td>NCUA</td>
<td>National Credit Union Administration</td>
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<td>NFT</td>
<td>Non-fungible token</td>
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<td>NY DFS</td>
<td>NewYork Department of Financial Services</td>
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<td>NYC</td>
<td>New York City</td>
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<td>OCC</td>
<td>Office of the Comptroller of the Currency</td>
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<td>OFAC</td>
<td>Office of Foreign Assets Control</td>
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<td>P2P</td>
<td>Peer-to-peer</td>
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<td>SAR</td>
<td>Suspicious activity report</td>
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<td>SEC</td>
<td>Securities &amp; Exchange Commission</td>
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<tr>
<td>TCFD</td>
<td>Task Force on Climate-related Financial Disclosure</td>
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<tr>
<td>UDAAP</td>
<td>Unfair, Deceptive, or Abusive Acts or Practices</td>
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<tr>
<td>UPI</td>
<td>Unique product identifier</td>
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<tr>
<td>UTI</td>
<td>Unique transaction identifier</td>
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