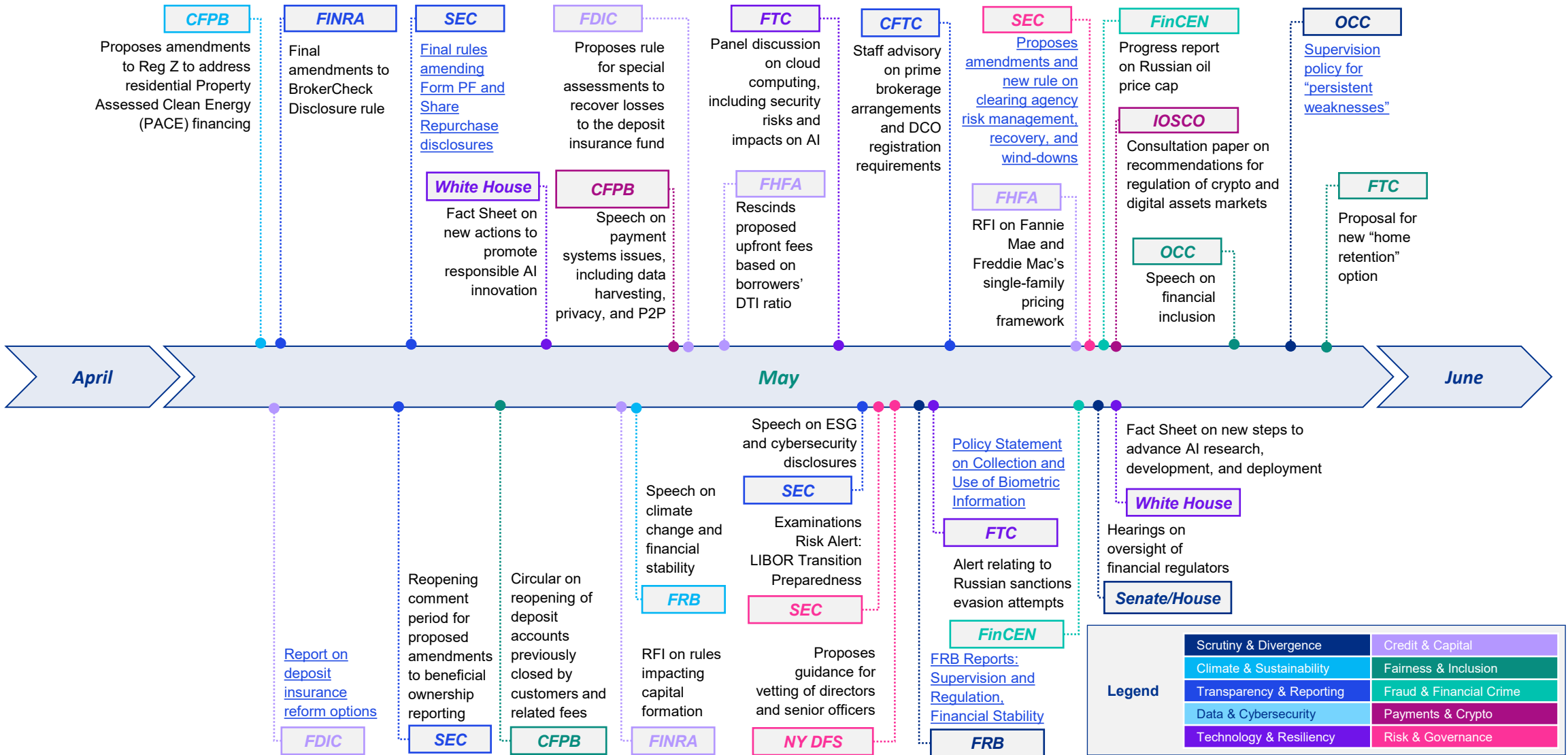




Regulatory Recap

May 2023 at a glance

Regulatory Insights: May 2023



Legend	Scrutiny & Divergence	Credit & Capital
	Climate & Sustainability	Fairness & Inclusion
	Transparency & Reporting	Fraud & Financial Crime
	Data & Cybersecurity	Payments & Crypto
	Technology & Resiliency	Risk & Governance



FDIC Deposit Insurance Reform Options



FDIC issues a report outlining:

- The history of the deposit insurance system in the U.S., as well as the stated objectives of the system, which include financial stability, depositor protection, consistency and transparency, and minimizing disruptions from bank resolutions.
- Policy tools that may be used to mitigate possible unintended consequences created by deposit insurance; these policy tools include bank supervision and regulation (directed toward capital, liquidity, long-term debt, interest rate risk, and growth supervision), deposit insurance pricing, and the adequacy of the deposit insurance fund (DIF).
- Three potential options as an alternative to the current deposit insurance system, including:
 - Limited Coverage
 - Unlimited Coverage
 - Targeted Coverage

Clearing Agency Risk Management and “Living Wills”



The SEC proposes:

- Two amendments to existing Rule 17Ad-22(e) (the “Covered Clearing Agency Standards”) under the Securities Exchange Act that would require covered clearing agencies (CCAs) providing central counterparty (CCP) services to establish, implement, maintain, and enforce a risk-based margin system.
- New Rule 17ad-26 that would require CCAs to identify and describe nine (9) elements in their recovery and wind-down plans, including identification of:
 - Critical services and continuity plans in the event of recovery or during an orderly wind-down
 - Service providers relied upon for critical services, including contractual obligations
 - Criteria that could trigger a recovery or orderly wind-down
 - Policies and procedures for monitoring, testing, reporting, implementing plans for recovery or wind-down.

Form PF and Share Repurchase Disclosures: Final Rules



The SEC finalizes:

- Amendments to Form PF, the confidential reporting form for investment advisers to private funds.
- Amendments to Share Repurchase Disclosure rules.
 - Amendments to Form PF are intended to fill “information gaps” that may help the SEC and FSOC better understand and identify financial stability and systemic risks.
 - Additional changes to Form PF may yet be forthcoming based on a joint SEC/CFTC proposal that looks to further expand reporting requirements, especially for large hedge fund advisers, in key areas such as investment exposures (including cryptocurrencies), open and large positions, and borrowing and financing arrangements. (See KPMG Regulatory Alert, [here](#).)
 - Final share repurchase disclosures follow the December 2022 release of the SEC’s final insider trading rule (see KPMG Regulatory Alert, [here](#)). Enhanced scrutiny of insider trading and broader conflicts of interest compliance risk programs, controls, and governance should be anticipated.

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Supervisory Focus: FRB Highlights



FRB publishes the May 2023 edition of two semiannual reports:

- The Supervision and Regulation Report, containing highlights of supervisory priorities and regulatory developments, as well as the FRB’s current assessment of banking system conditions.
- The Financial Stability Report, which distinguishes between shocks to, and vulnerabilities of, the financial systems, focusing on vulnerabilities across four categories (asset valuations, business/household borrowing, leverage within the financial sector, and funding risks) with identification of several potential near-term risks to the financial system.

FTC Policy Statement on Biometric Information



FTC adopts a policy statement on potential violations of the FTC’s prohibitions on unfair or deceptive acts or practices (UDAP Section 5) with regard to the collection and use of biometric information as well as claims regarding related technologies.

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- The policy statement widely defines what may be considered “biometric information”, such that all industries/companies should assess their collection and use of consumer biometric information.
- Expectations for compliance apply to companies and third parties (including affiliates, vendors, and end users) handling consumer biometric information ((and data “derived from these sources of information”) over the data “lifecycle”, including collection, use, and extrapolation/estimation.
- The FTC intends to use existing UDAP regulation to cover emerging risks from the growing use of innovative technologies and “automated systems”, which includes Artificial Intelligence and/or Generative AI technologies (see also KPMG Regulatory Alert, [here](#)).
- Companies should assess practices and controls against the examples provided but recognize this is a non-exhaustive list; FTC also notes that other laws and regulations may govern the collection, use, or storage of biometric information including the Children’s Online Privacy Protection Act and the Safeguards Rule under the Gramm-Leach-Bliley Act.

Bank Supervision: OCC “Persistent Weaknesses”



The OCC implements new policies and procedures when considering supervisory and enforcement actions against banks that exhibit or fail to correct persistent weaknesses (i.e., previously identified by the OCC as “deficient practices and/or violations”). :

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- The new policies and procedures:
 - Strengthen regulatory actions (e.g., divestiture, growth restrictions) in cases of “persistent weaknesses”.
 - Tie expansion of regulatory actions to prior speeches/issuances, including “too big to manage” and “repeat offenders”.
 - Reiterate the critical importance of bank risk management, issues management, and governance.

Contact



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



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