



Regulatory Recap & Look Forward

Insights from Q2 2024



Key Takeaways at Mid-year

2023 marked a year of prolific rulemaking, with the 2nd highest number of pages hitting the Federal Register and legal challenge to those rules becoming common-place.

In contrast, 2024 is shaping up to be remembered as The Year of Regulatory Anxiety marked by:

Exam Findings and Remediation

- Across areas of financial and nonfinancial risk, including data, AML, third party, trade surveillance, and e-communications.
- Multi-year examination resolution and remediation time/costs.

01

Regulatory Discord

- Legal challenge on new rulemaking
- State to state and state to federal discordant rules
- High reputational, operational and compliance risks

02

Frameworks and Existing Regulations

- Issuance of frameworks/ guidance (versus new rulemaking)
- Use of existing regulations in supervision and enforcement to new areas/products

03

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From robust supervision to state, federal, and global regulatory discord to election-year uncertainty—regulatory intensity is driving corporate costs as well as high anxiety.

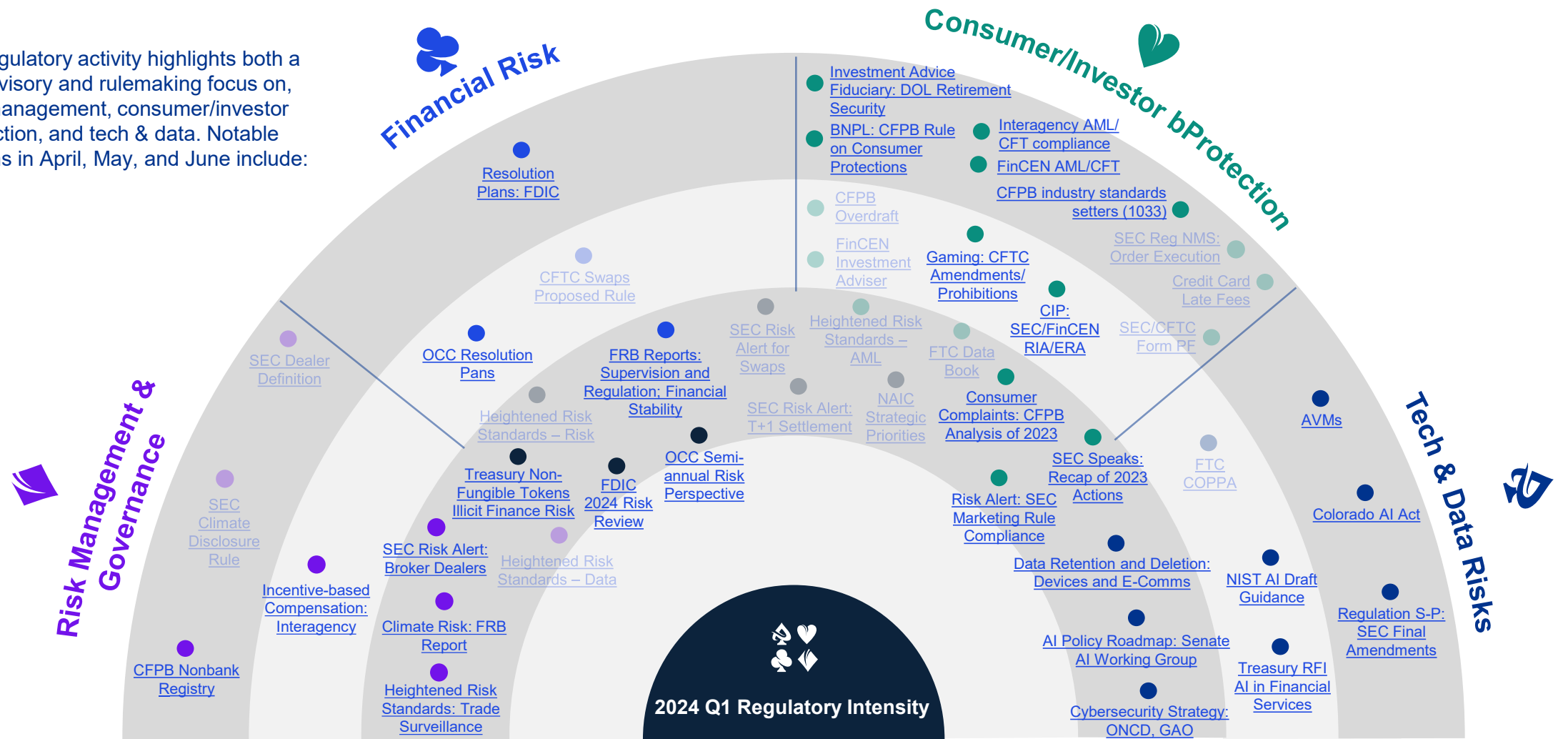
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2024 Q2 Regulatory Summary*

Q2 regulatory activity highlights both a supervisory and rulemaking focus on, risk management, consumer/investor protection, and tech & data. Notable actions in April, May, and June include:



* 2024 Q2 regulatory activity shown with 2024 Q1 highlights



Key Regulatory Activity: Rulemaking Q2 2024

Rulemaking activity in the second quarter of 2024 fell predominantly in the areas of consumer/investor protection and tech & data risks; additional rulemakings in the areas of risk management and financial risk. These rulemakings include:

Stage	Topic	Agency	KPMG Insights	Regulatory Insight
Final Rulemaking	AVMs	Inter-agency	<ul style="list-style-type: none"> — Model Anti-bias/Trust: Long-awaited rule adds to evolving regulations for anti-bias and trust in model/algorithm development and use. — Quality Controls: Focus on quality control factors (including estimate confidence and fair lending considerations), in areas of model risk management, third party oversight and “automated system” risk management. — Hurdles Notwithstanding: Despite potential difficulties to accessing a model’s data and design and/or the use of third parties, regulators will expect sound anti-bias/anti-discrimination in the institution’s model risk management controls. — Institutions Responsible: Regulators will expect institutions that utilize AVMs to “own the risk”. 	Automated Valuation Models (AVMs): Interagency Final Rule
	Buy Now/ Pay Later	CFPB	<ul style="list-style-type: none"> — Expansion of BNPL: As reason for this interpretive rule, CFPB analysis shows a tenfold increase in BNPL lending, with loans across merchant categories and ranging in purchase amounts. — It’s a “Credit Card”: The interpretive rule considers BNPL loans to fall under the same existing rules/regulations (including rights and protections of the Truth in Lending Act) that apply to traditional credit cards. — “Firing on All Cylinders”: Expect continued CFPB actions to quickly be issued (including enforcement actions) given the recent SCOTUS CFPB decision. 	Buy Now, Pay Later (BNPL): CFPB Rule on Consumer Protections
	Nonbank		— Registry for nonbanks subject to federal, state, or court orders in connection with consumer financial products/services	Focus on NonBanks
	1033	— Attributes for recognizing industry standards-setters for 1033 open banking	Reg Alert coming	
	ERISA	DOL	<ul style="list-style-type: none"> — Updated Definitions: The final rule modernizes definitions under ERISA, expanding regulatory coverage based on the evolving nature of investment advice, recommendations, and their significance for retirement investors. — Expanding Scope: By widening the scope of who is a fiduciary to not only broker-dealers, but insurance agents and other financial professionals, the rule aims to enhance the protection of retirement investors, ensuring advice on a broad range of investments serves their “best interests”. — Alignment: Aimed to align to the SEC’s Regulation Best Interest (Reg BI). 	Investment Advice Fiduciary: DOL Final Retirement Security Rule

Key Regulatory Activity: Rulemaking Q2 2024

Stage	Topic	Agency	KPMG Insights	Regulatory Insight
Final Rulemaking	Resolution Plans	FDIC	<ul style="list-style-type: none"> — Resolution scenarios: Not updated since 2012, the final rule sets forth resolution scenario analysis in planning, including bridge depository institutions and varied resolution options. — “Tailored” requirements/changes: Submissions and filings dependent on total assets (\$50B to \$100B, equal/over \$100B) with added differentiation for affiliates of U.S GSIBs. — Financial risk management: Regardless of size, expect continued supervisory focus on resolution and liquidity risk strategy, management, and governance as well as scrutiny of merger-related activity. 	Resolution Plans: FDIC Final Rule
	Data Security and Privacy	SEC	<ul style="list-style-type: none"> — Data Security: In addition to customer data breach notifications, rulemaking expands expectations around broader data risk management governance and controls (e.g. TPRM, monitoring/detection, disposal, cybersecurity, and privacy). — Aligning Rulemaking: To align with other regulatory actions such as SEC cyber proposals/rules, national security reporting, GLBA. — Perimeter Expansion: Expansion of “covered institutions” (including transfer agents); recognition of the increased use of technology and service providers and the corresponding increase in data security and privacy risks. 	Regulation S-P: SEC Final Amendments
	AI	State: CO	<ul style="list-style-type: none"> — Consumer Protection Focus: The Colorado AI law imposes obligations on both developers and deployers of “high-risk AI systems” to mitigate the risk of “algorithmic discrimination” and consumer harm across numerous sectors, including financial services, insurance, and healthcare.. — Core AI Principles: The new law follows core principles from the NIST AI Risk Management Framework, including guidance and standards related to design, development, deployment, and testing, and also aligns with the EU AI Act’s focus on “high-risk AI systems” and their relationship to “consequential decisions”. — Near-term Implementation: Compliance for developers and deployers is required beginning February 1, 2026, providing only eighteen-months to implement operational, risk management, and compliance changes. — More State AI Regulation: Colorado has actively pursued AI-related legislation/regulation. Expect continued (but likely differing/nuanced) AI-related legislative and regulatory activity across many states. 	Colorado Artificial Intelligence Act (CAIA)
Proposed Rulemaking	Incentive-Based Comp	Inter-agency	<ul style="list-style-type: none"> — 14 Years in the Making: Interagency proposal aims to curb “excessive risk-taking” at certain financial institutions with assets of \$1 billion or more by regulating incentive-based compensation, as mandated in the 2010 Dodd-Frank Act. — Balancing Compensation with Risk: Would introduce requirements for risk-adjusted awards, mandatory deferrals, and forfeiture and clawback provisions. — Feedback and Comments: Expect sharp feedback across divergent voices during the comment period. 	Incentive-based Compensation: Interagency Proposed Rule

Key Regulatory Activity: Rulemaking Q2 2024

Stage	Topic	Agency	KPMG Insights	Regulatory Insight
Proposed Rulemaking	CIP	Inter-agency	<ul style="list-style-type: none"> — “Closing the Gap”: Ongoing rulemakings expanding the regulatory perimeter to “close the gap” in regulatory coverage and further mitigate potentially illicit finance activity through the investment adviser sector, specifically RIAs and ERAs. — Industry Alignment: Proposal would align customer identification programs for investment advisers with those of other financial institutions under the AML/CFT framework. — Complements AML/CFT Framework: Proposal complements FinCEN’s February 2024 proposed rule to expand the definition of “financial institution” under the AML/CFT framework to include investment advisers and subject them to AML/CFT program and SAR filing requirements. 	Customer Identification Program (CIP): SEC/FinCEN RIA/ERA Proposal
	AML		— Interagency alignment of AML/CFT compliance requirements with FinCEN	Reg Alert coming
	Gaming and Event Contracts	CFTC	<ul style="list-style-type: none"> — Significant Growth: CFTC notes that, since 2021, there has been a significant increase in the number of event contracts listed for trading; the CFTC likewise acknowledges growth in registration applications from exchanges expressing interest in event contracts. — Delineating Jurisdiction: CFTC notes a desire to 1) denote what activities and contracts fall under its jurisdiction and 2) separate “gambling” from investing activities; Definitions would not supersede/override State or other Federal definitions. — Broad Risks: Proposal and related statements stress the risk that gaming and other event-based derivative contracts could pose to market integrity, election integrity, and national security. — Expansive Definition: Gaming, as defined in the proposal, covers a diverse range of events, and therefore prohibits a broad variety of related derivatives contracts from being listed, traded, or cleared. 	Gaming and Event Contracts: CFTC Proposed Amendments/ Prohibitions
	AI	NIST	<ul style="list-style-type: none"> — Flurry of Releases: NIST releases part of a continuing series of principle-based frameworks/guidance under the AI EO. — Span of Principles: AI issuances span GenAI-related risk management and development frameworks, transparency/explainability approaches for synthetic content, and plans for global alignment. — Quick Turn: Public comments due back in a month, demonstrating swiftness for which agencies are working to establish AI regulatory guidance in advance of elections. 	NIST Draft AI Guidance, Report, and Global Plan
	Resolution	OCC	— Revisions to the Recovery Planning Guidelines to expand the applicability threshold and add a testing standard	Reg Alert coming
	AI	Treasury	— RFI on uses, opportunities, and risks of AI in the Financial Services sector	AI Regulations: Present/ Future
	AML		— FinCEN modernization of AML/CFT programs; amendments to promote consistency across financial institutions	Reg Alert coming

Key Regulatory Activity: Reports/Alerts Q2 2024

2024 reports and alerts released continue to highlight areas of supervisory focus, including heightened attention to risk standards related to trade surveillance and data retention/deletion, and select areas of risk management, such as cybersecurity, climate risk, and marketing, . Areas where regulators are focusing include:

Stage	Topic	Agency	KPMG Insights	Regulatory Insight
Reports/ Alerts	Cyber Security	Inter-agency	<ul style="list-style-type: none"> — Top Priority: Concurrent issuances/actions from ONCD and GAO reiterate cyber as a top regulatory priority. — Harmonizing Cyber Regulations: Recommendations and RFI related to potential for creating a ‘unified cybersecurity framework’, streamlining regulations, and establishing reciprocal recognition across critical infrastructure sectors while recognizing associated challenges. — Baseline Cyber Standards: Desire for “baseline cybersecurity standards” across critical infrastructure sectors, that aim to reduce compliance costs. 	Cybersecurity Strategy: ONCD, GAO
	Trade Surveillance	Multi-agency	<ul style="list-style-type: none"> — Supervision/Enforcements Coming: Expect increasing operational risk management expectations to be applied to the trade surveillance program. — Breadth of Surveillance: Ensure a robust program for assessing trading activities across trading venues and platforms, and for varying scenarios of potential market misconduct. — Oversight: Demonstrate effective Board oversight and risk management of the trade surveillance program. — Monitoring: Establish sound routines for data reconciliation/quality, threat detection and ongoing monitoring and testing of trade surveillance and reporting. 	Heightened Risk Standards: Focus on Trade Surveillance
	Data Retention/Deletion		<ul style="list-style-type: none"> — Scrutiny on Unauthorized Communications: Enforcement trends highlight the critical need for firms to capture and retain all business-related communications, including those on personal devices. — Expanding Scope of Data: The types of data subject to regulatory expectations for retention and deletion continues to expand as technologies evolve. — Tighter Data Controls: Increasing regulatory actions demand stringent protection of customer data; retention and deletion practices should emphasize data minimization, purpose limitation, and enhanced privacy compliance 	Data Retention and Deletion: Devices and E-Comms
	Consumer Complaints	CFPB	<ul style="list-style-type: none"> — Consumer Complaints: CFPB receives nearly 1.7 million consumer complaints in 2023; 1.35 million sent to companies for review and response. — Fraud: Consumers raise fraud-related issues across nearly every product, including checking or savings accounts, credit cards, virtual currencies, and prepaid cards. — Rising Reporting Issues: Nearly 80 percent of complaints relate to credit or consumer reporting; in total, this complaints category shows a 34 percent increase in volume over 2022. 	Consumer Complaints: CFPB Analysis of 2023

Key Regulatory Activity: Reports/Alerts Q2 2024

Stage	Topic	Agency	KPMG Insights	Regulatory Insight
Reports/ Alerts	Risk	FDIC	— FDIC 2024 Risk Review	Reg Alert coming
	Supervision /Regulation	FRB	<ul style="list-style-type: none"> — Regulatory Findings Increase: There are increasing numbers of outstanding supervisory findings for institutions of all sizes. Only about one-third of the large financial institutions have satisfactory ratings across all three rating components: 1) capital planning and positions, 2) liquidity risk management and positions, 3) governance and controls. — Span of Findings: Approximately two-thirds of large institution's outstanding findings relate to governance and control issues (including operational resilience, cybersecurity, and BSA/AML compliance). For CBOs and RBOs, the top outstanding findings relate to IT/operational risk and risk management/internal controls. — Market Challenges: The FRB acknowledges challenges due to changes in depositor behavior, higher funding costs, reduced market for investment securities, and increased commercial real estate and consumer loan delinquencies. 	FRB Reports: Supervision and Regulation: Financial Stability
	Climate Risk		<ul style="list-style-type: none"> — Scenario Expectations: A bellwether for evolving regulatory expectations for all financial companies to enhance quantitative climate risk analysis—both physical and transitional, and across credit portfolios, geographies, time, etc. — Different Approaches: Construction of detailed risk scenarios today varies and is largely driven by business models, risk views/appetite, access to data and foreign jurisdiction regulatory experiences. — Data Gaps: Current gaps in data (real estate exposures, insurance, etc.) are filled via third-party vendor models/data and/or proxy estimates; data gaps challenge estimates on climate risks and the role of insurance to mitigate. — Enhancing Risk Management: Expansion of risk governance, internal controls/audits and model risk management needed for the pilot and evolving climate scenario analyses. 	Climate Risk: FRB Report on Scenario Analysis Pilot
	Risk	OCC	— OCC Semi-annual Risk Perspective	Reg Alert coming
	Broker/ Dealer	SEC	<ul style="list-style-type: none"> — Expect More Scrutiny: The SEC Risk Alert on examinations is an indication to the market that examination and scrutiny will continue/expand now and going into 2025. — Examination Preparation: Firms can utilize the information in the Alert (including the sample initial information request) to anticipate/prepare for potential/upcoming examinations. — Firm Selection: Selection of firms for examinations are based on varying factors beyond exam history/timing – e.g., tips/complaints, media coverage, and the holding of customer cash/securities. 	SEC Risk Alert: Examining Broker-Dealers

Key Regulatory Activity: Reports/Alerts Q2 2024

Stage	Topic	Agency	KPMG Insights	Regulatory Insight
Reports/ Alerts	Supervision/ Regulation	SEC	<ul style="list-style-type: none"> — Record Enforcement: A total of 784 enforcement actions representing a 3% increase over the prior fiscal year, and financial remedies of close to \$5 billion. — Whistleblower Power: Highest amount awarded in one year at nearly \$600 million and highest number of whistleblower tips received in one year at more than 18,000 (and 50% higher than the prior record). — Upcoming Exam Focus: Expect increasing focus on Compliance investment, T+1 compliance, execution transparency and fee transparency; Expect more risk alerts and outreach. 	SEC Speaks: Recap of 2023 Actions
	Marketing		<ul style="list-style-type: none"> — More Exams and Enforcements: Continued Marketing Rule Risk Alerts (coupled with recent enforcement actions) clearly signal heightened supervisory focus. — Beyond a General Policy: Expectations for tailored incorporation of the Marketing Rule into policies and procedures, and that such policies/procedures have been put into practice. — Prove and Disclose: Clear need for clarity in disclosures (Form ADV), as well as the need to maintain copies and documentation to support marketing claims. — True, Fair and Balanced: Avoidance of potentially untrue, unsubstantiated, misleading statements or omissions, etc.—expanding fairness principles across marketing and advertising. 	Risk Alert: SEC Marketing Rule Compliance
	Illicit Finance	Treasury	<ul style="list-style-type: none"> — Non-Fungible Tokens Illicit Finance Risk Assessment 	Treasury Actions: Risk Assessment Reports
	AI	U.S. Senate	<ul style="list-style-type: none"> — Unique Action: Puts forth policy considerations (across funding, legislation/regulatory actions, further areas of study) based on a Senate AI Working Group, garnering input and perspectives across nine (9) AI Insight Forums and numerous committee hearings. — Bipartisan Issuance: Recognizes profound changes from AI and sets directional agreement on the key areas of potential future policy development, including funding for research and development and confirming use of current legislation/rulemaking to AI as feasible. — Policy Principles: Generally, aligns with and supports key tenets of frameworks and actions being taken across regulatory agencies under the AI Executive Order (e.g., safeguarding, privacy, fairness, security). 	AI Policy Roadmap: Senate AI Working Group

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**Ten Key Regulatory Challenges of 2024:
Mid-year Look Forward**
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