### Regulatory Insights: July 2024

Key July 2024 regulatory actions include:

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| Final         | Regulatory Authorities     | SCOTUS        | SCOTUS issues several big rulings with rippling regulatory effects across industries:  
— **Loper Bright v. Raimondo**, et al (Chevron Doctrine): SCOTUS overturns the Chevron doctrine, a 40-year-old legal precedent whereby courts defer to agency interpretations of statutes in cases of ambiguity (as long as those interpretations are ‘reasonable’).  
— **SEC v. Jarkesy**: In a more limited ruling on enforcement of security fraud violations, SCOTUS rules on the entitlement of a jury trial rather than an in-house review by the agency. (Note: SCOTUS declined to address broader challenges to the agency’s enforcement structure, including the use of in-house administrative law judges.)  
— **Corner Post v. Board of Governors**: SCOTUS rules that the statute of limitations under the Administrative Procedures Act (i.e., six years after the right of first action accrues) begins when the plaintiff is “injured” by the final agency rulemaking/action. |
| Final         | Resolution / Recovery      | Interagency   | — **Strengthen Credible Plans.** Guidance on “living wills” required by Dodd-Frank Act for Category II and III banking organizations (over $250B, excluding GSIBs) aims to bolster resolution planning and strategies to enable a rapid and orderly resolution in cases of distress or failure.  
— **Focus on Strategy Execution.** Follows from/informed by recent industry focus on liquidity risk management; the operational capability to execute the chosen resolution strategy and plan is important.  
— **“Vulnerabilities”**. Refines expectations for “vulnerable” areas in resolution plans, including capital, liquidity, governance, and operations under multiple resolution strategies.  
— **Extended Submission Date.** Submission deadline for domestic and foreign covered banking organizations (triennial full filers) extended to October 1, 2025. |
| Final         | Real Estate Appraisals     | Interagency   | Five federal agencies (FRB, FDIC, OCC, CFPB, and NCUA) jointly release final guidance on ROVs (reconsiderations of value) for residential real estate valuations. The agencies state the final guidance, which has been adopted “largely as proposed”, is intended to highlight risks associated with “deficient valuations” and describe how financial institutions may incorporate ROV processes and controls into established risk management functions. |
| Final         | AI                         | DOC/NIST      | NIST releases part of a continuing series of principle-based frameworks/guidance under the AI EO, including GenAI risk management, secure software development practices for GenAI and dual-use foundational models, and plans for global alignment on AI standards. |

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Reg Alert pending

SCOTUS Decisions: Year of Regulatory Anxiety

Resolution & Living Wills: FDIC/FRB Final Guidance

Final Interagency Actions: Automated Valuation Models (AVMs), Reconsideration of Value
Growing Regulatory Pressure: Intensifying pressure to manage risks of third-party arrangements due to increasing dependencies and interconnections between companies; regulatory focus on safety and soundness, compliance, resiliency, and reputation risks.

Risk-Based Approach: Requires a risk-based strategy throughout the relationship lifecycle, regardless of the type or activities; expectation to rank parties/providers based on “criticality” and risk to the enterprise.

Ongoing Monitoring: Processes and controls for ongoing monitoring of practices and adherence to company policies, standards, and thresholds (e.g., access, use, security, privacy, retention, deletion, sharing/monetization); increased bar for reporting metrics to the Board.

Expanding AML/CFT: Increasing expectations and regulatory coverage for robust and consistent AML/CFT risk programs across financial institutions.

Emerging Risk/Continuous Improvement: Focus on a “reasonably designed”, risk-based AML/CFT program, including a mandatory risk assessment process and inclusion of “government-wide AML/CFT priorities”.

Supervision and Enforcement: Expect continued supervisory intensity with associated focus on maintaining/increasing needed talent/skillsets, tooling/automation, and investments - including in such areas as AML programs, fraud, and SAR identification/filing.

The OCC issues a notice of proposed rulemaking to amend its recovery planning guidelines (Guidelines), which are generally applicable to insured national banks, federal savings associations, and federal branches of foreign banks with total consolidated assets of $250 billion or more (collectively, covered banks). The amendments would:

- Lower the covered bank threshold from $250 billion to $100 billion in total consolidated assets.
- Add a testing standard that mandates periodic, but at least annual, testing of the recovery plan and its elements to validate the plan’s effectiveness during severe stress.
- Clarify that a recovery plan must consider financial risk and non-financial risk (including operational and strategic risks).

"Leaner" rulemaking agenda: Spring 2024 rulemaking agendas are "leaner" in comparison to 2023 agendas, likely due to the uptick in legal challenges as well as election year/Congressional Review Act timing.

Cybersecurity risk management: Anticipate more actions on cyber risk transparency and risk management practices, including disclosures and cyber incident reporting.

More AML/financial crime rulemaking: Multiple agencies issue (and to issue) joint and separate financial crime regulations related to customer due diligence, AML/CFT compliance, suspicious activity reporting, and information sharing.
KPMG Regulatory Insights' Ten Key Regulatory Challenges of 2024: Mid-year Look Forward

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