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

Putting the Cards on the Table

June 2024

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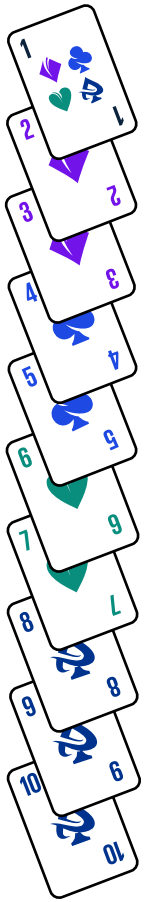

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Key Takeaways

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

> *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.*

Amy Matsuo
Leader, Regulatory Insights

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Regulatory Intensity at a Glance

Enforcement

$5 billion in financial remedies, **2nd greatest amount in SEC history**

SEC Speaks 2024

The largest settlement in history:

$4.3 billion

across DOJ, CFTC, FinCEN and OFAC for AML/sanctions compliance

U.S. Treasury

1st time ever

CFPB employs technologists in enforcement

CFPB blog, Jan. 29, 2024

SEC Speaks: Recap of 2023 Actions
Heightened Risk Standards: Focus on AML/BSA

Consumer Voice

$10 billion

in FTC consumer fraud losses, the highest on record and a **14% increase YoY**

FTC consumer complaints categorized in 3 main groups:

Fraud (48%)
Identity theft (19%)
Other scams (34%)

FTC, Data Book 2023

Fraud, Identity Theft, and Other Scams
Consumer Complaints: CFPB Analysis of 2023

Supervision

Increasing number of **supervisory findings** (e.g., MRAs) for institutions of all sizes, including:

- Liquidity and interest rate risk management
- Operational resilience
- Cybersecurity
- BSA/AML compliance

2/3

of large financial institutions had **supervisory findings** related to governance and controls, while…

1/3

of large financial institutions had **satisfactory ratings across all three ratings components** (capital, liquidity, governance).

Federal Reserve, 2023 Supervision and Regulation Report

Heightened Risk Standards: Focus on AML/BSA
FRB Reports: Supervision and Regulation; Financial Stability

Rulemaking

90,402

pages in the Federal Register at the end of 2023.

2nd highest

gross page count in its history.

Forbes, Dec. 29, 2023

Regulatory Alerts
The 'Empowerment' of State Law and Regulation

Staffing

Agencies with the largest number of **proposed personnel hirings in FY 2025:**

DHS (11,200)
Treasury (7,800)
DOJ (3,500)

Government Executive, Mar. 13, 2024

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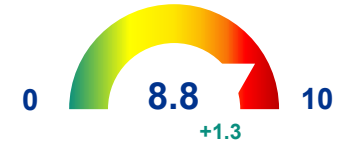
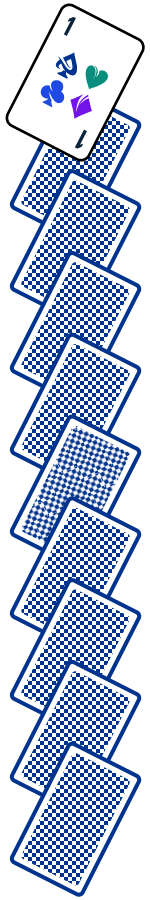
01 Regulatory Intensity

A shift away from "net-new" rulemakings and toward stringent supervision/ enforcement of existing rules and frameworks; complexities/ uncertainties from discord and legal challenge



Current Perspectives



Volume

- **Supervision and Enforcement:** Continuing high pace of supervisory and enforcement activity from regulators related to:
  - Governance and accountability, including involvement, oversight, and acumen of board, management, and three lines of defense.
  - Risk management, processes, and controls across various areas (e.g., operational resilience, liquidity and interest rate risk management, contingency funding and resolution planning, data and technology lifecycle and risk management, and third-party risk management (TPRM).
  - Transparency, adherence to fairness principles (e.g., explainability, repeatability, consistency, readability, etc.) across business lines, systems, products, marketing, and disclosures, as well as voluntary self-identification/ disclosures to regulators.

Complexity

- **Discord:**
  - Industry discord and legal challenges to regulatory authorities, jurisdictions, and rulemakings.
  - Uncertainty around the 2024 election outcome and how different administrations could potentially impact upcoming regulatory, supervisory, and enforcement activities prompting rulemakings in the first half of 2024.
- **Implementation Challenge:** Challenges, discord, and new proposed/enacted requirements that are notably different from the existing, as well as management and resolution of enterprise-wide issues, are driving the need for immediate attention, direct investment, and changes across people, processes, and technology.
- **Old is New:** Existing rules, regulations, and guidance continue to be applied in new ways, and to new areas, through supervision and enforcement.

Impact

- **Regulators are looking for:**
  - **Immediate Action:** Concern around "Drive Fast, Crash" risk culture and perceptions of "persistent weaknesses", repeat offenses, and "too big to manage" is resulting in escalating enforcement actions (e.g., ratings downgrades, growth limitations, divestitures).
  - **Commitment to Resolve:** Demonstrable commitment: to issues resolution; self-identification; proactive disclosure; voluntary restitution; accountability.
  - **Expansion:** The expansion of the regulatory perimeter (e.g., "heightened standards", "closing gaps" in regulatory coverage, scrutinizing "fairness" principles, applying existing rules and authorities in new areas/ways, etc.) has significantly expanded impacts across and throughout the whole of companies.

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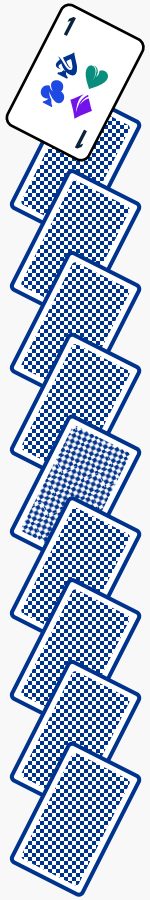
01 Regulatory Intensity

Forward Insights



Volume

- Given the upcoming election and potential scrutiny under the Congressional Review Act, regulators may likely shift focus from rulemaking activity to supervision and enforcement of existing rules and establishment of new frameworks (vs rules).
- **Potential Regulation:** "Big Rocks", may include:
  - Rulemakings or guidance (e.g., Commerce rulemakings on AI, SEC Cybersecurity, operational resiliency at banks, CFPB 1033 and digital wallet provider supervision, FinCEN CTA/CDD, Basel III Endgame, Long-Term Debt Requirements).
  - Decisions on legal challenges (e.g., SEC Climate, CFPB 1071) and potential for challenges on new rulemakings/applications.

Complexity

- **Existing Rules:** Heightened regulatory expectations (regardless of state of discord or challenges) around compliance with established rules, regulations, guidance, and frameworks, including in new applications or areas.
- **Expanding Perimeter:** Closing of "gaps" in regulatory coverage and expanding coverage within existing authorities to address market changes and technological and financial innovation (e.g., FinCEN's AML/CFT proposal for investment advisers, CFPB's proposal to supervise large digital payment providers, etc.).
- **State Regulation:** Potential for increased state regulatory activity in the absence of federal rulemakings.

Impact

- **Strict Enforcement:** More stringent supervision and enforcement of deficiencies across risk pillars and the whole of company, with potential for escalating consequences for repeat offenses and/or failure to address issues.
- **Commitment to Resolution:** Heightened standards in supervisory expectations for faster issues identification, assessment, mitigation, and resolution, as well as "loop-back" to controls and risk assessments.
- **Risk Culture:** Ongoing and increasing emphasis on voluntary self-identification/ disclosure and regulatory cooperation in cases of deficiencies or misconduct.

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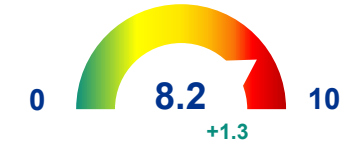
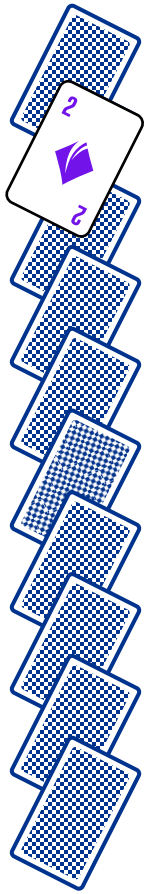
Risk Management & Governance

02 Risk Standards

Regulatory expectations for robust (and demonstrable) risk management and governance; expanding focus on operational and compliance risk, protecting critical activities, role of third parties/nonbanks, and financial stability



Current Perspectives



Heightened Standards

- **Examinations:** Exam intensity and potential ratings impacts driven by regulatory findings, with multi-agency supervisory and enforcement focus on:
  - Established prudential risk frameworks (risk appetite, limits, escalations, etc.).
  - Enterprise and consumer compliance and complaints.
  - Sound, effective governance frameworks and risk standards for adoption and use of AI, automation, or other technologies.
  - Issues management (e.g., governance, identification/ resolution, root cause analysis, expansion of controls, robustness and completeness of end-to-end processes and inventory).
  - Continuous improvement/ sustainability of processes (e.g., internal controls, data management, change management, issues management) reflecting industry developments and changes to the company risk profile.

Change & Resiliency

- **Existing Authorities/Expanding Perimeter:** Application of existing supervisory authorities, risk standards, and frameworks to an expanded base of financial services providers (e.g., digital wallets, private funds, etc.).
- Multi-agency focus on operational resilience and links to other areas of non-financial risk management (e.g., cyber, TPRM); impact assessments of disruptions including consideration of:
  - Critical operations and core business lines (e.g., payments, clearing, and settlement).
  - Tolerance for disruptions based on risk appetite.
  - Scenario testing/validation of interconnections.
  - Third-party oversight throughout life cycle, particularly of “new or novel structures and features” (e.g., fintech ‘partnerships’) and services for critical operations.
  - Incident response processes and system and data backup techniques enabling recovery from disruptions.

Governance

- Regulatory scrutiny around risk governance, with emphasis on:
  - Roles, responsibilities, and accountability across the three lines of defense.
  - Talent management, expertise, and stature afforded risk functions (e.g., autonomy, empowerment, visibility).
  - Expanded internal controls and non-financial risk management.
  - Integration of policies and standards into frameworks, credible challenge(s), and demonstrable evidence of dynamic risk assessment in support of the design, testing, effectiveness, and sustainability of risk controls.
- Regulatory action to clarify roles/responsibilities and expectations of “ownership” and accountability for board and management (e.g., SEC climate, FDIC final rule on corporate governance, etc.).

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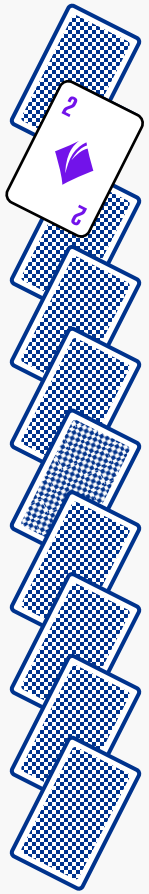
02 Risk Standards

Forward Insights



Heightened Standards

- **Heightened Standards:** Continued application of, and exam intensity around, heightened standards across risk pillars and within risk areas (e.g., Financial, Nonfinancial – including Operational, Compliance, as well as to AML/BSA etc.)
- **Multi-Agency Focus:** Ongoing multi-agency focus areas: risk governance; risk frameworks; effectiveness and sustainability of processes and controls; issues management; continuous improvement, and change management.
- Expectation for demonstrable credible challenge, improvement, sustainability.
- Heightened supervisory attention to resolution of continuing, recurring, or increasing deficiencies.
- Focus on comparison to "at or above peers“.

Change & Resiliency

- **Regulatory Framework:** Potential changes to regulators’ operational resiliency framework, including future guidance/rulemaking.
- **Expanding Perimeter:** Potential designation of select non-banks as SIFIs.
- **Coverage:** Ongoing regulatory focus on ensuring adequate risk coverage as markets change, innovation evolves, and complexity increases – including due diligence/risk assessments for new arrangements and technology (e.g., banking-as-a-service arrangements, use of artificial intelligence technologies).
- **Risk-Based:** Evolving emphasis on operational resiliency (of processes, systems/ platforms, markets); more rigor to higher risk and critical activities.

Governance

- Regulatory/Supervisory focus on:
  - Effectiveness and sustainability of risk-related processes and controls (quantitative, qualitative).
  - Transparency and escalation reporting to board/management of risks and early warnings of elevated risks.
  - Accountability, incentives/compensation, skills, stature, and board/management acumen.
  - Change management where changes to leadership/staffing, operations, risk management frameworks and business activities are “significant”.
  - Talent management for sufficient resourcing and subject matter expertise.

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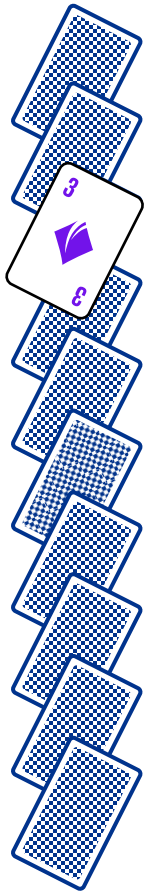
Risk Management & Governance

03 Risk Sustainability

Regulatory expectations for adoption, functionality, continuous improvement and "sustainability" of risk processes and functions across governance, risk assessments, internal controls, issues management, and challenge

Current Perspectives



Proving Sustainable Processes

- **Resilience:** Multi-agency focus on strong risk management and controls around operational resilience—the ability "to prepare for, adapt to, and withstand or recover from disruptions".
- **Risk Assessments:** Adequacy and sustainability of identification/assessment approaches in capturing business processes and associated risks, including IT and third party. Ability to aggregate individual risk stripe evaluations to present an enterprise-wide view of aggregate risk aligned with overall risk appetite.
- **Metrics:** Demonstration of metric-driven risk capacity and skills models to determine resource requirements (e.g., due to issues management, during times of cost containment).
- **Risk Culture:** Demonstrable, credible culture and values with a sound approach to dynamically measure and assess it; Objective, measurable KPIs tied to performance evaluations to promote risk culture across lines of defense.

Issues & Remediation

- **Issues Management Processes:** Ongoing focus including:
  - Governance around issues resolution with clearly defined ratings (e.g., high, medium, low.), resolution timeframes, intermediate mitigating controls, inventory and tracking mechanisms, and communication protocols.
  - Demonstration of validity, effectiveness, sustainability, and continuous "loop", including early warnings and escalations.
- **Remediation:** Rapid response to regulators, appropriate analyses and determinations of "consumer harm(s)", and demonstration of interim and continual progress.
- **Effective Challenge:** Continuous "loop" from issues management to risk /assessment. Quality assurance and review demonstrating effective challenge of issue outcome/ remediation.

Climate (Discord) & Sustainability

- **Discord:** Differing approaches across the U.S. (federal rulemakings/ standards, state laws/ regulations) and with other jurisdictions (e.g., EU's CSRD, ISSB, etc.), as well as legal challenges to rulemakings (e.g., SEC stay of climate rule.)
- **Expected Preparation:** Despite discord and legal challenges, regulators are still expecting companies to continue to advance financial risk management and associated data and controls.
- **Data/Model Governance:** Appropriate governance and controls regarding data (internal and external) and analytics-driven methodologies used to quantify climate risk, right-sized relative to intended purpose such as internal audiences (e.g., board- or committee-level reporting) or external audiences (e.g., financial filings, ESG/Sustainability reporting).

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Risk Management & Governance

03 Risk Sustainability

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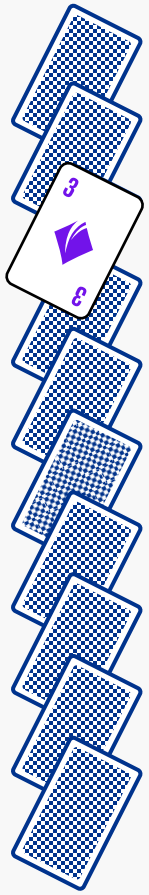

Proving Sustainable Processes

- **Processes:** Ongoing supervisory attention to the sustainability of processes, particularly around operational resilience, as well as its link to other areas of non-financial risk management (e.g., Operational Risk, Compliance Risk, TPRM, critical business capabilities, critical business operations, critical tech services and cybersecurity).
- **Identifications/Assessment:** Scrutiny around the comprehensiveness and effectiveness of risk identification and assessment processes in evaluating risk coverage.
- **Culture/Conduct:** Evidence of tie to risk program and processes (e.g., root cause assessment, past due reporting, etc.).
- **Investment in Compliance and Risk Functions:** Sustainable processes supported by technology capabilities and strong metadata practices.

Issues & Remediation

- **Issue Management:**
  - **Inventory:** Completeness and quality of issues inventory.
  - **Governance:** Governance over the issues management lifecycle (e.g., planning, implementation, closure).
  - **Identification and Resolution:** Issues identification and resolution (distributed across the three lines of defense and across risk tiering) and associated testing, critical challenge, and validation of sizing, mitigation, and resolution.
  - **Complaints:** Robust analysis of complaints, disputes, and claims information for systemic issues, and demonstration of actions taken.

Climate (Discord) & Sustainability

- **Weather-Related Events:** Ongoing and evolving regulatory expectations and scrutiny around weather-related events and related disclosures (e.g., capitalized costs, expenditures, losses) as well as associated risk governance, management, controls, data, analysis, testing and assurance, and continuing jurisdictional discord and legal challenges (international, federal, states).
- **Quantitative/Qualitative Disclosures**: Related to board and management governance; actual or potential impacts to strategy, business model or outlook; use of carbon offsets or carbon pricing.
- **Fairness:** Scrutiny under existing investor protection rules of fair advertising/marketing and clear disclosures related to climate transition plans and “net-zero” strategies and commitments.

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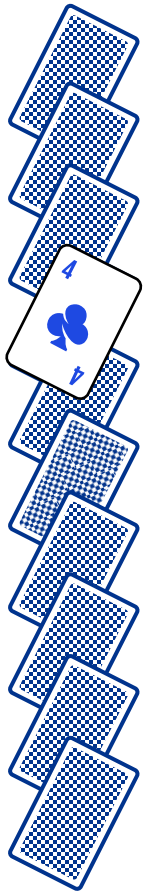
Financial Risk

04 Growth & Resiliency

Ongoing and increasing regulatory focus on capabilities related to liquidity and interest rate risk management, contingency funding, and resolution planning

Current Perspectives



Liquidity

- **Liquidity Risk Management:** Supervisory focus and heightened expectations around liquidity risk management, particularly intraday liquidity management (e.g., monitoring expected timing of deposit inflows and outflows) and stress testing.
- **Funding Plans:** Regulators will continue to scrutinize:
  - Diversity, stability of funding sources maintained to ensure resilience under adverse conditions.
  - Operational readiness for accessing contingency funding (e.g., familiarity with procedures and availability of collateral).
  - Frequency of reviews, updates to contingency funding plans in response to changing market conditions or strategic initiatives.
  - Cost of funds vs Cost of lending - regional banks.
- **Interest Rate Risk Management:** Supervisory focus on interest rate risk management, especially around risk modeling, limits, and reporting.

Resolutions

- **Elements of Resolution Planning:**
  - **Processes:** Heightened expectations around the strength of bank resolution planning, strategy, and reporting, as well as capabilities to support key elements of the resolution plan.
  - **Critical Operations:** Focus on the continuity of shared services deemed to be material to critical operations or the resolution strategy, including plans for retention of key personnel, facilities, systems, data warehouses, and intellectual property.
  - **Clearing Agencies:** Expanding focus on recovery and wind-down planning by clearing agencies, including critical payment and settlement activities and services, as well as third-party service providers.

Too Big To Manage

- **M&A:** Intensifying evaluation process for merger applications, with focus on several factors:
  - Impacts/ harm to competition.
  - Financial stability, concentration, or other risks to the U.S. banking system.
  - Convenience and needs of the community to be served, including heightened attention to physical branch closures/ATM removal.
  - Compliance status (e.g., outstanding deficiencies) of the associated parties (domestic and foreign).
- **Persistent Weaknesses**: Examination scrutiny of “Drive Fast, Crash” risk culture as well as size and complexity; escalating consequences for repeat offenders/repeat failures to address deficiencies.
- **Regulatory Perimeter:** Focus on identifying and responding to potential financial stability risks; ensuring appropriate supervision, regulation, and compliance of nonbank financial companies.

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Financial Risk

04 Growth & Resiliency

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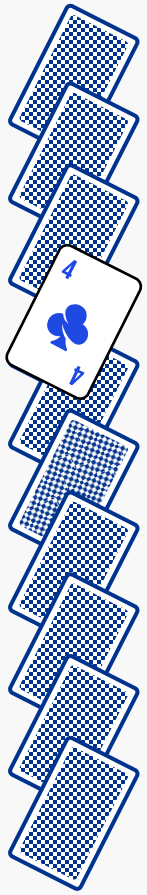

Liquidity

- **Ongoing supervision of:**
  - **Liquidity Risk Management Practices**: Robustness of internal liquidity risk limits and stress testing, adequacy and diversification of contingency funding plans, and effectiveness of independent liquidity risk and internal audit functions.
  - **Interest Rate Risk Management Practices**: Robust risk modeling, limits, and reporting, implementation of appropriate interest rate hedges, and overall management of long-term risks related to changing rates.
- **Intraday:** Heightened expectations / increasing enforcement activity around intraday liquidity management.
- **Potential Rulemaking:** Finalization of interagency LTD requirements (large banks, HCs); treatment of deposits and liquidity.

Resolutions

- Ongoing supervisory focus on resolution planning, strategies, regulatory reporting, and remediation/ follow-up on related shortcomings/ exam findings.
- Expectation for resolution strategies to maximize franchise value and minimize losses realized by creditors during divestiture.
- **Capabilities:** Demonstrable capability to carry out the elements of the resolution plan, including continuity of critical services.
- **Dependencies:** Third parties providing critical activities (e.g., cloud services, IT support).
- **Potential Rulemakings/Guidance:** Finalization of (e.g., SEC Clearing Agency Risk Management and "Living Wills"; FDIC resolution plan requirements for $50+ billion insured depository institutions; FDIC/ FRB guidance on resolution plans filed by domestic and foreign Category II and III banks).

Too Big To Manage

- **M&A:** Ongoing and increasing scrutiny of "anticompetitive" or "harmful" M&A activities, the compliance statuses of the associated parties, or risks to financial stability.
- **Interconnectivity:** Evolving scrutiny of nonbank financial companies, concentrations, risk management and governance processes, and interconnections with financial institutions, including third-party dependencies and consideration of passive investments and change in bank control.
- **Potential Rulemaking:** Finalization of FDIC Statement of Policy on Bank Merger Transactions; OCC proposal on business combinations under the Bank Merger Act and related Statement of Policy.

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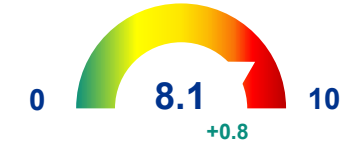
Financial Risk

05 Capital & Valuations

Regulatory expectations to "level-up" on financial risk management practices; areas of focus include liquidity and interest rate risk, CRE and consumer credit, strategic planning, board oversight, reporting



Current Perspectives

Calculation

- **Risk Weighting:** Greater regulatory attention both in rulemaking (e.g., Basel III Endgame, GSIB capital surcharges) and in broader quantifications and scenario analysis (e.g., wealth-related, cyber, disruptive event modeling, economic uncertainty, etc.).
- **Credit Exposures:** Regulatory scrutiny on the data, models, metrics, limits, and reporting around calculation of various risk exposures (e.g., direct, third-party, contagion, counterparty, etc.).
- **Commercial Real Estate (CRE):** Elevated interest rates and shifting occupancy trends driving values down are becoming the regulatory focus of CRE challenges (e.g., credit, liquidity, and capital financial risks), including calculation and maintenance of capital, contingency funding sources, and stress tests.

Framework

- Heightened interagency attention and evolving expectations around proposed capital frameworks, with emphasis on principles such as granularity, robustness, transparency, comparability, and consistency. Across several risk exposure types, focus areas include:
  - **Credit:** Risk sensitivity, consistency, and comparability across companies and distribution of credit risk to nonbanks.
  - **Market:** Risk sensitivity and consistency, as well as model calibrations.
  - **Operational:** Consistency and comparability.
  - **Derivatives:** Clarity and consistency.

Risk Management

- **Heightened Standards:** Regulatory focus on heightened standards and expectations for sound financial governance and risk management across all risk pillars, including:
  - **Board Effectiveness:** (e.g., adequate oversight over risk management practices).
  - **Risk Management Structures and Frameworks:** (e.g., fully integrated risk management program, identification of emerging risks, root cause analysis of internal control failures and deficiencies).
  - **Testing/Controls:** Enhancements and expansion of internal controls, stress testing, risk sensitivity measures, model calibration, risk detection/capture.
  - **Challenge:** Internal audit effectiveness (e.g., methodology/programs sufficiently report to and challenge management, timely analysis of critical risk management functions independent of operational effectiveness.

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Financial Risk

05 Capital & Valuations

Forward Insights

Calculation

- **Heightened Expectations:** Expectations for, and supervisory focus on:
  - Compliance with existing guidance and rules around financial, operational, and risk calculations, as well as their accuracy.
  - **CRE:** Heightened CRE risk management (e.g., maintaining strong capital levels, diversifying funding sources, and leveraging stress tests), loan classification, regulatory reporting, and accounting considerations on estimating loan losses.
  - **Consumer Credit:** Increasing risk in consumer credit (e.g., auto, credit card).

Framework

- **Capital Requirements:**
  - **Industry Discord:** Related to interagency proposal and potential effects (e.g., increase in "shadow bank" lending, reduction in market liquidity, etc.).
  - **Reconsideration:** Interagency reconsideration and potential for "broad material changes" (e.g., lessened requirements), with impacts to related rulemakings (e.g., interagency long-term debt proposal, jurisdictional divergence (e.g., U.S. vs. international (EU)).
- **Risk Management Frameworks:** Regulatory expectations and scrutiny (regardless of status of capital proposal) around financial risk management and capital frameworks, including many elements outlined in the Basel III proposal (e.g., risk sensitivity, consistency, and comparability).

Risk Management

- **"Level-Up":** Multi-agency expectation that companies "level up" – or look beyond existing regulatory and supervisory requirements around sound financial risk management to strengthen risk management practices, such as liquidity and interest rate risk management practices, strategic planning, board oversight, and accurate, timely reporting.
- **Proactivity:** Recognition for demonstrated, proactive self-identification, remediation, and reporting.

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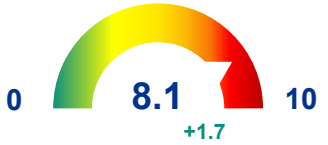
Consumer/ Investor Protection

06 'Threat Actors'

Supervisory focus on the expansion of perceived threats and vulnerabilities (e.g., AML/BSA/CFT, sanctions evasion, malware/ransomware, human rights, national security, fraud. misconduct)



Current Perspectives

Financial Crime

- **Additional Rulemaking:**
  - **Expanded Perimeter:** Proposals to "close the gap" in regulatory coverage through application of BSA/AML/CFT requirements (including SAR filings) and CIP obligations to the investment adviser industry (i.e., RIAs, ERAs).
  - **Beneficial Ownership:** New requirements (as of January 2024) for companies operating in the U.S. to report beneficial ownership information (BOI); phased-in access to information.
- **Heightened BSA/AML Risk Standards:**
  - **Data Lineage and Quality:** Focus on traceability of data at both the customer and transaction level, as well as across business processes.
  - **Transaction Monitoring:** Quality of transaction monitoring and surveillance systems, models, processes, and controls, with expectations for increased effectiveness, strength of underlying models, and innovation (potentially including AI).

Fraud

- **Program:** Focus on fraud risk program, including controls, models, and consumer impacts. Push from regulators for companies to enhance fraud reporting by categorizing more types of scams (particularly imposter scams) and defining/ clarifying what customers can be reimbursed for.
- **Identity Theft/ Synthetic Identity Fraud:** Utilization of stolen or synthetic identification information to perpetrate fraud, such as credit card fraud, opening new accounts (new account fraud), or applying for loans/leases, as well as other schemes.
- **Payments:** With a shift toward faster/ real-time payments, increasing awareness of need for real-time checks and algorithms as critical to managing fraud losses.

Misconduct

- **Corruption:** New anti-corruption/ anti-bribery law (FEPA) includes the demand, receipt, or acceptance of bribes by "foreign officials", expanding upon previous focus of FCPA (offer and payment of bribes).
- **Threat Detection and Monitoring:** Adequacy and continual improvement of threat detection, monitoring, surveillance, and response capabilities, including reliability of processes (e.g., due diligence, access, safeguards) and coverage of novel and emerging threats and vulnerabilities (e.g., crypto, sanctions, malware/ ransomware, human rights/ forced labor, organized criminal networks, fraud and insiders).
- **Technology and Conflicts of Interest:** Regulators are looking to mitigate (or eliminate) conflicts of interest associated with customer interactions through technologies that optimize for, predict, or forecast behavior or outcomes (e.g., SEC Covered Technologies proposal).

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Consumer/ Investor Protection

06 'Threat Actors'

Forward Insights

Financial Crime

- **Supervision/Enforcement:** Ongoing focus around:
  - Maintaining comprehensive, compliant BSA/AML/CFT programs.
  - Sanctions compliance particularly with respect to recent and potential new designations.
  - Data lineage and quality, transaction monitoring, and threat mitigation and vulnerabilities.
  - Customer due diligence.
  - Beneficial ownership information requirements.
  - Skills/capacity in surveillance and investigations.
- **National Security:** Ongoing and growing scrutiny of illicit finance risks and links to threats to national security.
- **Potential Rulemaking:** Forthcoming rulemakings, including FinCEN rulemaking (under CTA) updating customer due diligence requirements, expansion of BSA/AML/CFT and CIP to RIAs/ERAs.

Fraud

- **Supervision of:**
  - **Management:** Risk and fraud model management of existing and new products, services, customers, and geographic operations; enhancement of processes for new account opening, account monitoring.
  - **Fair Treatment:** Within fraud and investigation processes, ongoing oversight and monitoring of synthetic identity fraud.
  - **New Offerings:** Activities related to new, innovative products or services (e.g., crypto and digital assets, AI use, etc.) and potential to perpetrate fraud or financial crimes.
- **Authorization:** Increasing focus on consent management/ customer authentication requirements (e.g., MFA, password protection, third party access, tokens, etc.) alongside new rulemakings such as CFPB 1033.

Misconduct

- **Corruption/Bribery:** Heightened enforcement focus on anti-corruption/ anti-bribery, with scrutiny of both the "demand" (under FEPA) and "supply" (under FCPA) sides of bribery.
- **Conflicts of Interest:** Regulatory and supervisory scrutiny around potential conflicts of interest (e.g., deployment/ use of consumer-facing technologies).
- **Investment:** Adequacy of investment in Compliance (e.g., staff. resources, compliance incentives/deterrents, compensation).
- **Proactivity:** Demonstration of self-identification, self-reporting, and accountability as measures of responsiveness to complaints and whistleblower activities.

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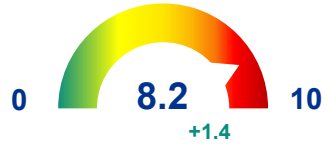
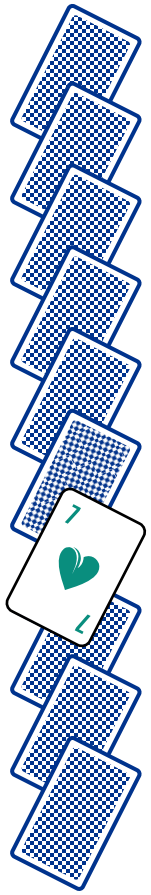
Consumer/ Investor Protection

07 Fairness

Legal challenges to rulemakings; a focus on fees and "product risk" (marketing and operational execution); expectations for robust analysis of customer impact/harm



Current Perspectives



Fairness

- **Legal Challenge:** Legal challenges could potentially lead to high degrees of discord (e.g., CRA, Section 1071, fee rules and proposals), yet regulators expect continued preparedness/implementation planning.
- **Principles:** Supervisory focus on fairness, particularly to principles of "known or should have known" (e.g., via identified issues, complaints, etc.); expansion of regulatory perceptions of "repeat issues" and marketing/advertising disclosure.
- **Mergers:** Evaluation of competitive impact of proposed merger activity (e.g., FDIC proposed statement of policy updating evaluation processes and expectations with focus on safety, soundness, and competition; DOJ/FTC revisions to merger guidelines expanding on "competitive harms" (to include "workers, creators, suppliers, and other providers", as well as serial acquisitions, minority interests, labor markets, and platform markets).

Access/ Treatment

- **Regulatory Perimeter Expansion:** Application of existing supervisory authorities, risk standards, and frameworks to an expanded base of financial services providers.
- **Market Structure Changes:** Changes to market structure (final and anticipated) to promote transparency and competition (e.g., T+1 settlement cycle, Reg NMS: Order execution, SEC dealer definition).
- **Focus on Fees:** CFPB rule on credit card late fees and proposed reforms for overdrafts.
- **Credit Reporting:** Accuracy of credit report information, providing opportunities for consumers to correct false or fraudulent information, as well as safeguards against identity theft.
- **Fair Treatment:** Complaints, claims, and fraud management, focusing on timeliness, substance, completeness and consistency of responses.

Product Risk

- **Fraud:** Regulatory focus on fraud, identity theft, and imposter and other scams, including those related to predatory lending, payments, and crypto.
- **Transparency:** Attention to marketing and disclosure of product features, descriptions, fees, and terms for accuracy, clarity and consistency; enforcements against false and/or misleading claims about products or services (e.g., AI models/tools).

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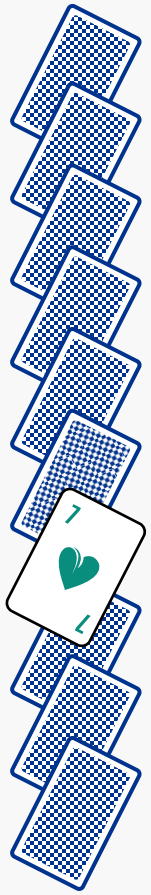
Consumer/ Investor Protection

07 Fairness

Forward Insights



Fairness

- **Supervision/Enforcement:** Increasing supervision and enforcement in expanding areas (e.g., regulatory perimeter application of fairness principles).
- **Legal Challenge:** Legal challenges add uncertainty/discord around fairness regulations (e.g., CRA, Section 1071, fee rules and proposals).
- **Fewer Regulations:** Lessening of net new regulations due to election cycle, Congressional Review Act.
- **Emerging Areas:** Emerging areas of fairness (e.g., interplay between credit/ insurance and fair lending, use of models/AI, location of resources (offshoring), and skill of resources around compliance and AML testing and investigations).

Access/ Treatment

- **Expanding Perimeter:** Supervision and enforcement of existing rules, standards, and frameworks to an expanded base of companies (e.g., digital wallets, private funds, credit reporting, etc.).
- **Examinations:** Focus on compliance with regulatory changes to market structure and pricing/fees.
- **Heightened Expectations:** Increasing regulatory expectations around:
  - Customer impact analyses.
  - Sizing of potential impacts.
  - Timeliness to identify, escalate, and resolve.
  - Remediation and/or restitution.
  - Actions to address root causes.

Product Risk

- **Transparency:** Ongoing supervision and enforcement around claims, marketing, and disclosures of products, features, fees, and terms (e.g., AI, models, and automated systems, deposit insurance claims and FDIC logo usage, scrutiny of fees).
- **Fraud:** Interplay between fraud risk and consumer protection regulations.

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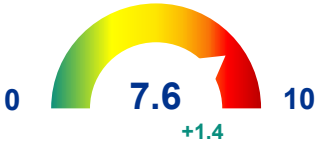
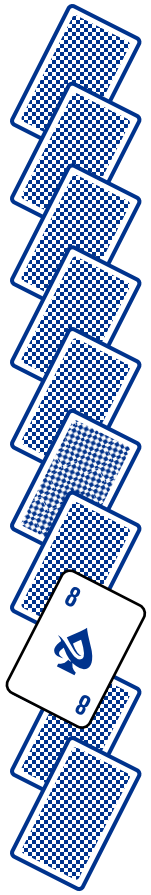
Tech & Data Risks

08 Responsible Systems

Scrutiny of technology, operations, and model/"model-like" use (including AI/GenAI), with a focus on vulnerabilities, security, privacy, explainability, fairness, and integrity



Current Perspectives



Current & Evolving Regulations

- **Principles:** Regulators are scrutinizing the design, development, testing and validation, deployment , and use of responsible systems based on foundational principles of fairness, explainability/ accountability, risk management, security and resiliency, data privacy, and data integrity.
- **Expanding Regulatory Activity:** AI regulatory activities via proposed rules, discovery and requests for information/comment, guidance, speeches, and enforcement.
- **Existing Authorities:** Regulators reiterate that existing authorities and regulations can (and will) be applied to AI, with high expectations (amidst principles-based regulation) around sound and effective governance and risk management frameworks and data risk standards.

Regulatory Complexity

- **Divergence:** Continuing and evolving multi-jurisdictional (federal, state, international) focus adds complexity to both risks and compliance around responsible systems; potential for diverging regulatory and supervisory frameworks and expectations creating varying requirements by geography/jurisdiction (international (e.g., EU AI Act) vs federal, federal vs state, state vs state), and necessitating an understanding of implications for customer/internal operations.
- **Jurisdictional Challenge:** Legal challenges to the application of certain rules (e.g., consumer protection to systems, technologies, data, and algorithms) add complexity if regulatory authorities are uncertain.

Spanning Risks

- **Foundational Principles:** Depending on use and deployment, automated systems and technologies can transcend risk pillars (e.g., credit, market, operations, compliance, reputational, etc.), prompting regulatory and supervisory scrutiny around the foundational principles, with particular emphasis on:
  - Application of existing model risk management (MRM) (SR11-7) and third-party risk management (TPRM) frameworks and standards.
  - Security and resiliency standards.
  - Explainability and accountability.

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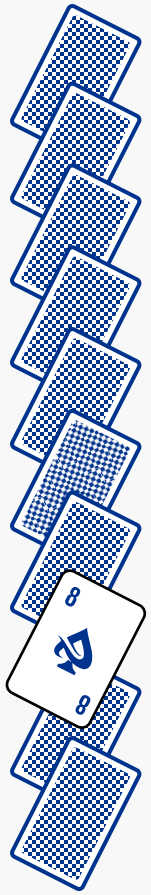
Tech & Data Risks

08 Responsible Systems

Forward Insights



Current & Evolving Regulations

- **Potential Rulemakings and Guidance:**
  - **AI:** Evaluating AI technologies, conducting 'red-teaming' tests, facilitating consensus-based standards, providing testing environments.(e.g., NIST releases to supplement the AI Risk Management Framework such as GenAI profile, secure software development; benchmarks to evaluate AI capabilities).
  - **AI/Cloud:** Cloud provider reporting on large AI models with potential to be used in malicious cyber activity (e.g., Commerce proposal).
  - **Conflicts of Interest:** Use of predictive data analytics by broker-dealers and investment advisers (e.g., SEC "covered technologies").
  - **State Regulation:** Various state-level regulatory and supervisory frameworks and requirements.
- Potential AI legislation (e.g., Senate AI Policy).

Regulatory Complexity

- **Evolving Frameworks:** Evolving frameworks/ standards/rulemaking at federal level (per Executive Order directives) focusing on responsible AI development and use across key principles.
- **Divergent Regulation:** State and international activities and potential for divergence in frameworks, standards, and/or expectations.
- **Legal Challenge:** Outcomes of legal challenges and regulatory response could exacerbate divergence issues and add more complexity to regulatory environment.

Spanning Risks

- **Supervision:**
  - **Risk Management and Governance:**
    - Robust development, implementation, and use (e.g., clear statement of purpose, sound design/ theory/ logic).
    - Effective, independent validation.
    - Sound governance, policies, and controls.
    - Appropriate third-party risk management, controls, and oversight.
  - **Security and Resiliency:** Mitigating security risks (e.g., adversarial attacks, data poisoning, insider threats, model reverse engineering, etc.) and improving resiliency to prevent disruptions to systems/ operations.
  - **Accuracy, Clarity, and Consistency:** Regarding claims made and marketing of automated systems and technologies.

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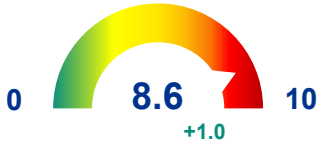
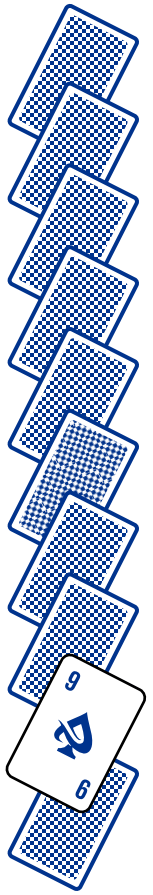
Tech & Data Risks

09 Security & Privacy

Regulatory concerns around data security, management, and privacy driven by security risks spanning cyber and technology to operational, physical, and third parties



Current Perspectives



Security

- **Cybersecurity Threats:** Evolving security risks are driving regulatory scrutiny of cyber defense and response processes, board reporting and oversight, timeliness of incident reporting, and speed of effective remediation.
- **Technology/Operational Resiliency:** Growing cross-agency focus on robustness of risk management, controls around technology and operational resilience—the ability "to prepare for, adapt to, and withstand or recover from disruptions".
- **AI-Related Risk:** Managing risk associated with artificial intelligence including traditional machine learning, large language models and third-party models.
- **Third-Party Risk Management:** Supervisory intensity around risk management of third-party relationships, including "new or novel structures and features" (e.g., fintech 'partnerships') or services for "critical activities".

Data Management

- **Heightened Standards:** Regulatory expectations to demonstrate and sustain elements of "heightened standards", including:
  - **Governance:** Involvement of board, management, and three lines of defense in the risk data aggregation and risk reporting (RDARR) framework.
  - **Data Universe and Tiering:** Adequacy of scope and breadth of data, metrics, models, reports covered by RDARR, including classification.
  - **Data Lineage:** Traceability, reporting on relationships between data outputs and business processes, authoritative sources, systems of record, and systems of origin.
  - **Data Management and Quality:** Standardized processes and controls around access, authentication, authorization, use, retention and deletion, privacy, security, and sharing; accuracy of data, controls to measure and manage risk exposure and reporting.

Privacy

- **Business Use:** Focus on data collection, notice and consent, use, retention, sale, and/or transfer practices; emphasis on data minimization, purpose limitation, privacy.
- **Data Deletion/Disposal:** Scrutiny/enforcement of response to consumer data requests (including deletion), as well as disposal practices (e.g., disposal of devices/ assets containing customer data, policy compliance).
- **Controls Inventory:** Regulatory focus, including:
  - Content/Quality of controls (e.g., right/ key controls).
  - Testing adequacy, coverage, and effectiveness, including timeliness to remediate identified gaps.
  - Integration of control testing with privacy risk assessments (e.g., new products, services and data stores); demonstration of actions taken (e.g., enhancements) based on failures, risk assessments.
- **Third-party Data Practices:** Understanding of third-party consumer data practices, source(s), and other parties developing/ utilizing the data.

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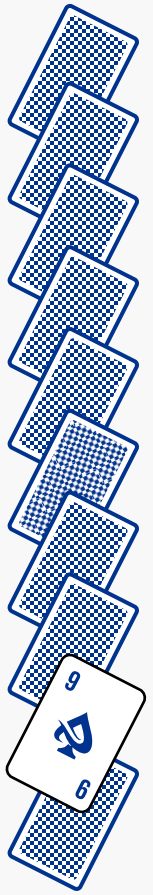
09 Security & Privacy

Forward Insights



Security

- **Risk Management:** Supervision and enforcement of management and oversight of security-related risks (e.g., cyber/ technology, operational, physical, third-party, etc.), including processes, reporting, remediation, and recovery.
- **Rulemaking/Compliance:** Supervision and enforcement of compliance with security-related rules and requirements (e.g., SEC Cybersecurity disclosures, Interagency guidance on TPRM).
- **Potential Rulemaking:** Finalization of SEC Cybersecurity Risk Management for Funds/Advisers; SEC Cybersecurity Risk Management for Market Entities; Regulation SCI.

Data Management

- **Heightened Standards:** Supervision and enforcement around "heightened standards" related to data management and oversight, including:
  - Governance.
  - Data universe, classification, tiering.
  - Data lineage, traceability.
- **Potential Rulemaking:** Finalization of FDIC corporate governance and risk management guidelines for banks outlining expectations for board and management responsibilities regarding risk management around risk data aggregation and reporting capabilities.

Privacy

- **Privacy Practices:** Ongoing focus on data minimization, deletion/disposal, controls, breach notification.
- **TPRM:** Supervision and enforcement of TPRM and oversight of third-party data practices related to consumer privacy.
- **State Regulations:** Ongoing state-level legislative and regulatory activity related to consumer/ employee privacy.
- **Potential Rulemaking:** Finalization of amendments to Children's Online Privacy Protection Act (COPPA).
- **Potential Legislation:** Continued calls for a federal consumer privacy law (e.g., Senate AI Policy Roadmap).

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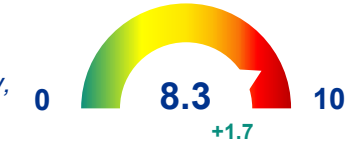
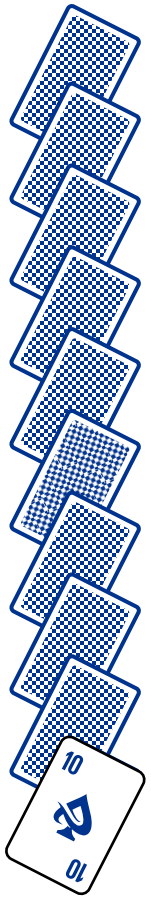
10 Data

Demonstrable and sustainable implementation of heightened standards throughout the data lifecycle (e.g., collection, use, privacy, security, retention, deletion/disposal)



Current Perspectives



Data Governance

- **Traceability:** Ability to trace and report on the relationship between data outputs and business processes, systems of record, and systems of origin.
- **Risk Standards/Framework:** Policies supported by appropriate procedures and processes designed to provide risk data aggregation and reporting (RDARR) capabilities in line with BCBS 239, and appropriate for the size, complexity, and risk profile of the company.
- **Classification:** Data security classification based on the level of sensitivity, availability, and criticality, with additional considerations for where data sovereignty and localization requirements must be considered under data privacy laws.
- **Third-Party Data:** Controls to ensure appropriate third-party collection, use, sharing, etc. of consumer data, and understanding of data source(s) and additional parties developing/ utilizing the data.

Data Risk and Controls

- **Data Risk:** Expectation that companies define data risk through the risk taxonomy and have metrics and processes to measure and monitor risk at the line of business and enterprise levels.
- **Data Controls:**
  - Standardized data processes and controls around access and authorization, quality and integrity, capture and usage, privacy and security, and sharing with third parties.
  - Aligned with the data risk taxonomy and shown to be sustainable through automation and a robust testing function.
- **Reporting:** Ability to report accurately and holistically on data risk at the line of business, regional (country), and enterprise levels.

Data Lifecycle Management

- **Data Collection:** Focus on collection, use, retention, and/or transfer practices, with emphasis on data minimization, purpose limitation, security, and privacy.
- **Data Retention:** Scrutiny and enforcement of data retention practices (e.g., maintaining and preserving business communications conducted through unauthorized, “off-channel”, communication methods).
- **Data Deletion/Disposal:** Scrutiny and enforcement of data disposal practices (e.g., disposal of decommissioned devices, other IT assets that contain customer or business data).

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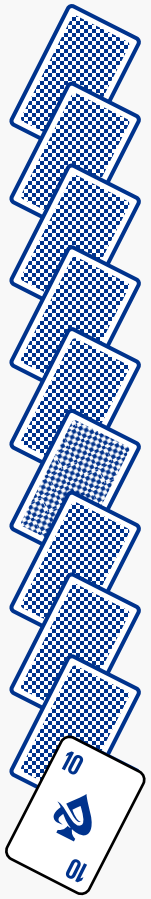
10 Data

Forward Insights



Data Governance

- **Increasing Regulatory Scrutiny:**
  - **Governance:** Involvement of board, senior management, and three lines of defense in the RDARR framework (e.g., roles/responsibilities, review/challenge; policies, standards, procedures; metrics, risks, controls).
  - **Universe and Tiering:** Adequacy of scope and breadth of data, metrics, models, reports covered by RDARR (& classification/tiering).
  - **Lineage:** Ability to trace and report on the relationship between data outputs and business processes, authoritative sources, systems of record, and systems of origin.
  - **Management:** Processes/controls for access, authorization, use, privacy, security, sharing.
- **MRM/TPRM:** Increasing focus on model and third-party risk management guidance as applied to use of advanced technologies and LLMs/AI.

Data Risk and Controls

- **Risk Management:** Scrutiny of data quality, processes, and controls for both financial and non-financial risks around issues management severity/tiering, change management measurements, etc.
- **Examination and Enforcement:** Data controls, testing, safeguarding, retention, and disposal, as well as data lineage and traceability.
- **Expanded Reporting:** Expansion of data reporting requirements/expectations (e.g., rulemakings for private funds, Basel III, Section 1071, SEC Climate Disclosure, etc.) and as part of examination processes.

Data Lifecycle Management

- **Surveillance:** Ongoing scrutiny, and potential for rulemaking, around commercial surveillance and the collection, retention, use, and/or transfer of customer data.
- **Collection/Retention/Disposal:** Scrutiny and enforcement of retention and disposal practices around customer data, with emphasis on data minimization, purpose limitation, and enhanced privacy compliance.

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Regulatory Barometer Methodology

The KPMG Regulatory Insights Barometer assesses areas of upcoming regulatory pressure and direction of change.* The Barometer:

- Is based on a 10-point scale of regulatory intensity that ranges from ”minimally increasing” (1.0) to “significantly increasing” (10.0). The plus/minus differential is calculated as the difference between the current and prior six-month barometer scores.
- Assesses three attributes for each challenge area:
    - **Volume (V):** Based on a combination of anticipated rulemakings (proposed/final/guidance), coverage in communications (reports/speeches/hearings), and oversight activities (supervision, enforcement)
    - **Complexity (C):** Based on factors such as the intricacies of future requirements versus existing ones, consistency of expectations across jurisdictions, and interactions with other regulations or standards
    - **Impact (I):** Based on factors such as the urgency of action required, potential implementation costs, resourcing challenges, and business risk
- Combines the individual factors for each attribute (V, C, I) to arrive at a single weighted average indicator of regulatory intensity for each challenge area.

** The KPMG Regulatory Insights Barometer is based on KPMG understanding of industry practices and regulatory expectations; KPMG cannot guarantee that regulatory authorities would agree with our analysis and understanding or that our perspectives would foreclose or limit any potential regulatory action or criticism. Further, our views herein may not identify all issues that may exist or that may become apparent in the future and may be subject to change.*

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