

2024 Regulations: How They Impact Your Compliance Training Programs



Planning Your 2024 Compliance Training Programs

2023 has been eventful in the financial services industry and we don't expect anything to slow down in 2024. Major final rules and proposals were released earlier in the year and more could be expected by the end of the year and early next year that almost everyone will be required to follow in 2024.

BAI constantly monitors the landscape of the financial services industry and stays on top of regulations to help our customers plan their compliance training programs for the future.



The following information is a summary of the most impactful topics for financial institutions and how they affect compliance training.

This year, there have been three major rules that have either went into effect or are going into effect that businesses need to be aware of and develop training for.

Three Major Rules Went into Effect or Are Going into Effect



Section 1071: Small Business Data Collection Act



Community Reinvestment Act (CRA)



Section 1033: Personal Financial Data Rights

Section 1071: Small Business Data Collection Act

Section 1071 requires covered financial institutions to collect and report information on small business applications, based on certain thresholds established in the Act. Covered financial institutions include organizations such as banks, savings associations, credit unions, online lenders, equipment, vehicle and commercial finance companies, non-profit organizations, and certain governmental organizations. Each of the covered financial institutions must have at least 100 covered originations in each of the two preceding calendar years. Covered financial institutions are not required to aggregate originations at the parent or holding company level. Financial institutions are not required to report the covered originations produced by an affiliate.

From a training perspective, it is important to make sure employees understand what qualifies as a small business and what financial information needs to be collected from them. The small business definition comes from the Small Business Administration (SBA) rules, which is referred to as a “small business concern”. A small business concern (SBC) must be independently owned and operated; not be dominant in its field of operation; and not exceed the relevant small business size standard for the particular procurement action (\$5 million or less in gross annual revenue). It must be located and operate primarily within the US; or contribute significantly to the US economy by paying taxes or using American products, materials, or labor. A financial institution is permitted to rely on an applicant’s representation of their gross annual revenue, which may or may not include an affiliate’s gross revenue for the same fiscal year. Covered credit transactions are extensions of credit primarily for business, commercial, or agricultural purposes, unless excluded under the final rule.

Covered credit transactions include loans, lines of credit, credit cards, merchant cash advances, and other credit products. They include the following types of lending activities:

- Reevaluations, extensions, or renewal requests on an existing business credit account, only when there is an increase in credit
- All refinances, regardless of the dollar amount requested
- Inquiries and prequalification requests
- Reviews or evaluations initiated by the covered financial institution
- Solicitations and any firm offers of credit

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Regulation B requires that covered financial institutions must not discourage applicants from responding to requests for primary owner demographic data. They must maintain procedures for collecting the data before the final decision, in a reasonable manner, and the request was prominently displayed or presented. Procedures designed to monitor compliance with the law should address monitoring for low response rates, and for significant irregularities. Institutions must provide adequate training to loan officers and any others involved in the collection of the data.

The law includes one Safe Harbor for covered financial institutions that initially collects demographic data of the applicant's principal owners pursuant to the final rule, but later determine that it should not have collected that data, as long as the institution had a reasonable basis for believing that the applicant qualified as a small business.



For businesses to properly cover Section 1071 in their training programs, topics for all applicable employees should include the following areas:

- Background and purpose of the rule
- Compliance date
- Covered transactions
- Define small businesses
- Define covered applications
- Reportable data points
- Timing and reporting of applicant provided data
- Response rate monitoring
- Tolerance for errors allowed and penalties for non-compliance
- Record Retention
- Annual reporting
- Firewall and exception
- Notices

The audience should include anyone who holds a title of small business lenders, small business loan processors, small business loan operations, small business administrative support, auditors, compliance, website support for notices, and anyone else with duties related to these rules.

Community Reinvestment Act (CRA)

The interagency CRA final rule was recently released, and it had several changes which will impact compliance training in 2024 and beyond. Key elements of the final rule include: (1) CRA continues to be a strong and effective tool to address inequities in access to credit and become innovative to expand access to credit; (2) adapt to changes such as expanded role of mobile and online banking; (3) providing greater clarity, consistency, and transparency; (4) tailoring CRA evaluations and data collection to a bank's size and business model; (5) tailor data collection and reporting requirements and use existing data whenever possible; (6) promote transparency; (7) CRA and fair lending responsibilities are mutually reinforcing; and (8) promote a consistent regulatory approach.

The proposal mentions that assessment areas will still largely be focused on a bank's Facility Based Assessment (FBA), but intermediate to large institutions will also be evaluated under the Retail Lending Test. Large banks are required to create a retail lending assessment area when less than 80% of retail lending activity occurs within their Facility Based Assessment Areas. Large banks would also need to delineate areas where they have an annual lending volume of at least 150 home

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mortgage loan originations or at least 400 small business loan originations in a geographical area for two consecutive years.

Large banks will be assessed on all four tests with no exceptions. Intermediate banks will also be evaluated under the new Retail Lending Test, and either the status quo community development test, the Community Development Financing Test

if they choose to opt-in. Small banks would be evaluated under the existing Lending Test, unless they choose to opt-in to the new Retail Lending Test. Community development activities anywhere in the US can qualify for CRA credit, but activities near a Facility Based Assessment Areas will carry more weight.

Most banks will not need to comply with most of the provisions until January 1, 2026, and large banks will not have to comply with the reporting requirements until January 1, 2027. However, banks will need to comply with the public file requirements when the final rule becomes effective on April 1, 2024. The agencies, for the first time, will develop and maintain a publicly available illustrative list. Banks can also submit a request to their regulator to provide a determination on CRA qualifying activities, which may not be included in the illustrative list.

Large Banks <small>≥ \$2B</small>	Retail Lending Test	Retail Services and Products Test	CD Financing Test	CD Services Test
Intermediate Banks <small>Retail lending test and existing CD test or opt into CD financing test</small> <small>\$600M - <\$2B</small>	Retail Lending Test		Existing CD test <small>(default)</small>	CD Financing Test <small>(opt-in)</small>
Small Banks <small>Existing lending test or opt into Retail Lending Test</small> <small><\$600M</small>	Existing lending test <small>(default)</small>	Retail Lending Test <small>(opt-in)</small>		
Limited Purpose Banks			CD Financing Test	

For businesses to properly cover the Community Reinvestment Act in their training programs, topics for all applicable employees should include the following areas:

- Purpose of the rule
- Effective dates
- Bank size (small, intermediate or large) and how that is determined
- Requirements applicable to bank size or model
- Retail lending assessment areas
- Retail lending test (intermediate and large banks as well as small banks who opt in)
- Retail services and product tests (large banks only)
- Public file content and notice requirements
- Community development financing test (for large banks and intermediate that opt-in)
- Community development services test (large banks)
- Community development definitions (intermediate and large banks) and the types of activities that qualify, and the metrics used
- Details on the products and services test, including products and services that meet the criteria and rating process
- Detail on data collection and reporting requirements (large banks)

Section 1033: Personal Financial Data Rights

Section 1033 requires covered entities to make available to consumers, upon request, transactional data and other information concerning consumer financial products or services that the consumer obtains from a covered entity. The Consumer Financial Protection Bureau’s (CFPB) goal with Section 1033, is to provide options to strengthen consumers’ access to and control over their financial data.

Open banking uses the concept that consumers should be the ultimate owners of their financial data, and they should be free to access, and share that information, and have the choice to obtain products and services with whomever they choose. Covered data providers are defined as a “financial institution” under Regulation E or “card issuer” under Regulation Z. Organizations offering digital wallets would be required to comply with the rules. Covered accounts would

Six categories of information that we expect to be part of the requirements:

- Periodic statement information regarding transactions and deposits that have settled
- Information regarding prior transactions and deposits that have not yet settled
- Information about prior transactions not typically shown on periodic statements or not available with online banking systems
- Online banking transactions that have not been processed yet
- Account identity information
- Other information such as consumer reports used to qualify a consumer for a product or service, fees, bonuses, rewards, discounts, or other incentives, and information about security breaches that exposed a consumer’s identity or financial information.



The following table highlights what the expected compliance dates are for the four tiers listed in the proposed rule:

Tier	Institution Type	Proposed Compliance Date
1	Depository institutions with at least \$500 billion in total assets and non depository institutions with at least \$10 billion in total revenue in the preceding calendar year or are projected to in the current calendar year	6 months
2	Depository institutions holding between \$50 billion and \$500 billion in total assets and non depository institutions generating less than \$10 billion in total revenue in the preceding calendar year or are projected to in the current calendar year	1 year
3	Depository institutions holding between \$850 million and \$50 billion in total assets	2.5 years
4	Depository institutions with less than \$500 million in total assets	4 years

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include any checking, savings, consumer assets, or prepaid account held directly or indirectly by a financial institution and established primarily for personal, family, or household purposes, as well as credit card accounts and digital wallets. Importantly, commercial or business accounts are exempt from the requirements, as well as open-end credit accounts that are not credit cards, and closed-end loan accounts.

Consumer data is extremely important for financial institutions to be able to provide and protect, which means there are several training areas that should be covered to ensure this information is shared appropriately.

The Board of Directors and Senior Management should consider requesting periodic reports be given to them, on the status of the organization's efforts for implementation of the rule once the final rule has been passed.

Suggested 1033 training topics for general overview training to all applicable employees should include the following:

- Background and purpose of the rule
- Effective date and required compliance dates
- Definition of data provider
- Definition of authorized third parties
- Methods to authenticate consumer for direct access
- Third party authorization procedures
- Third party access portal
- Types of information that must be made available
- Exemptions for types of information that must be made available
- Methods and circumstances for making data available for direct access by consumers
- Methods and circumstances for making data available for third-party access

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It's relevant content that you can trust. It's an actionable lesson that your staff can use to make better decisions.

BAI goes beyond compliance courseware with additional eLearning technology and professional development resources that help clients stay current with industry changes.”

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