
2023 Banking Landscape: The 10 C's revisited...what to expect and what you need to do

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 Wolters Kluwer

Today's Presenters



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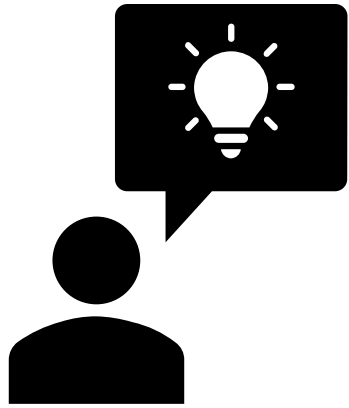
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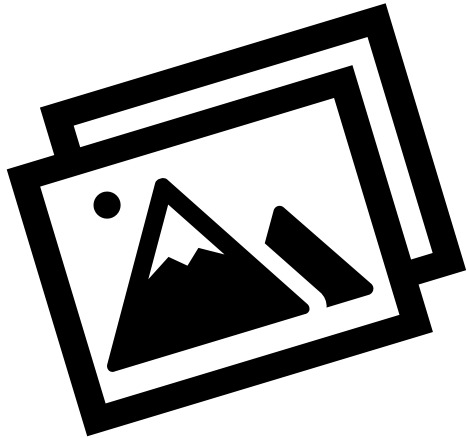
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Purpose and Introduction



- **Review:**
 - Take a closer look at the trends and challenges we saw and experienced in 2022
- **Forecast:**
 - Look forward to 2023 and what we expect
- **Prepare:**
 - Help you plan for how to address the 2023 challenges

Comparison: 2022 vs. 2023



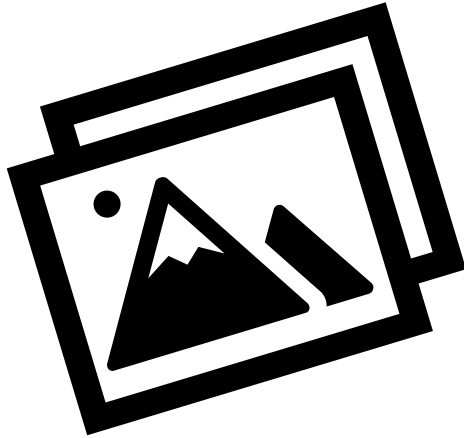
The 2022 10 C's

1. Climate Risk Management
2. CRA Regulatory Modernization
3. Compliance and Consumer Protection
4. Cybersecurity
5. Cryptocurrency
6. Change Management
7. Competitive Changes
8. Consolidation
9. Continuing Effects of the Pandemic
10. Cannabis Banking

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11. Conditions

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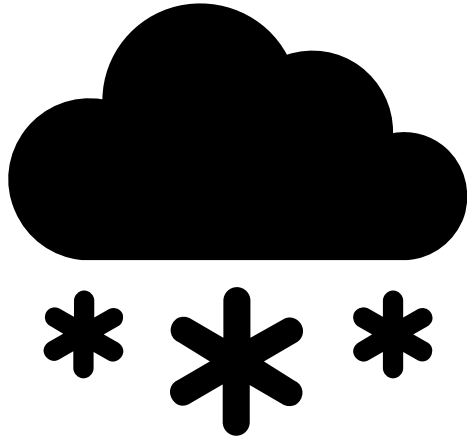
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Climate Risk Management



What happened in 2022?

- SEC proposed rulemaking to standardize climate-related disclosures
- FSOC established the Climate-related Financial Risk Advisory Committee (CFRAC) / OCC established the Office of Climate Risk (OCR)
- OCC, FRB, and FDIC release climate-related financial risk management draft Principles for large FI's
- NYDFS proposed Guidance on Management of Material Financial Risks from Climate Change

What do we expect in 2023?

- High likelihood of the SEC issuing a final rule in 2023
- CFRAC and OCR are expected to improve industry understanding of climate-related financial risk impacts and how best to manage
- The Agencies are expected to take steps to finalize the draft Principles in 2023
- Feedback on the NYDFS proposed Guidance is due by March 21, 2023

CRA Regulatory Modernization



What happened in 2022?

- NPR issued by the FRB, OCC, and FDIC on May 5
- Comment period closed August 5 with over 650 comments received
- Agencies reviewed the comment letters and began work on what is expected to be a final rule
- Industry concerns include the evaluation method, implementation time, retail lending assessment areas, and information used by the agencies to support the proposal

What do we expect in 2023?

- Final rule expected in the “early part of 2023”
- Will be looking for:
 - Implementation period
 - “Synching” with 1071
 - Asset thresholds
 - Assessment areas
 - Treatment of auto lending
 - Major product line determinations
 - Retail lending volume screen
 - Evaluation standards
 - Transition rules
 - Data collection and reporting

Compliance and Consumer Protection



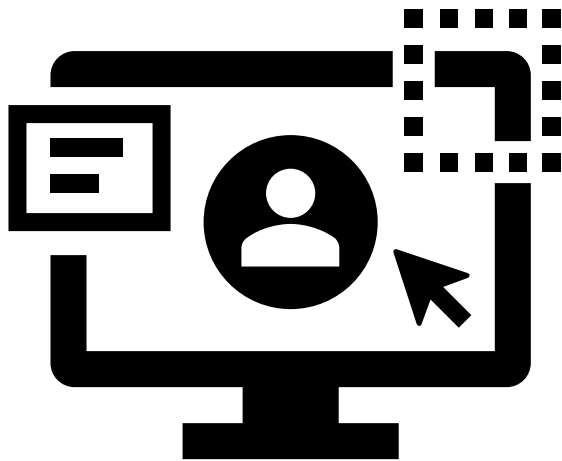
What happened in 2022?

- Fair Lending – a top priority across the regulatory spectrum
- Appraisal bias – “PAVE” Task Force
- UDAAP/ECOA – discrimination as an unfair practice
- Overdraft programs and practices
- Third party risk management; CMS, etc.
- Increased examination focus on BSA/AML
- Flood insurance penalties

What do we expect in 2023?

- Continuing emphasis on Fair Lending – redlining, pricing, underwriting, appraisals, AVMs
- Small business lending data collection and reporting (1071)
- Dodd Frank Section 1033
- Nonbank supervision; TPRM
- New BSA rules/supervision
- Payment systems
- Others: junk fees; BNPL; overdrafts

Cybersecurity



What happened in 2022?

- SEC proposes cybersecurity disclosure rules for public companies
- Agencies issue joint final rule to establish computer-security incident notification requirements
- Key risk in *OCC 2023 Supervision Operating Plan & OCC Fall 2022 Semiannual Risk Perspective*
- FTC extends compliance deadline for changes to Safeguards Rule
- FFIEC updates the Cybersecurity Resource Guide for Financial Institutions to include ransomware
- NYDFS proposes amendments to its Cybersecurity Regulation

What do we expect in 2023?

- Final SEC cybersecurity rules expected in April of 2023
- Increased operational risk expected as cyber threats evolve
- OCC examiners will review:
 - Tech investment, systems implementation, infrastructure governance and third-party cyber risk
- Consider how FTC's Safeguards Rule may apply to TP's/partners
- Heightened expectations for use of FFIEC Cybersecurity Resource Guide, CAT and IT Handbooks.
- NYDFS will repropose revised version or adopt final regulation.

Cryptocurrency



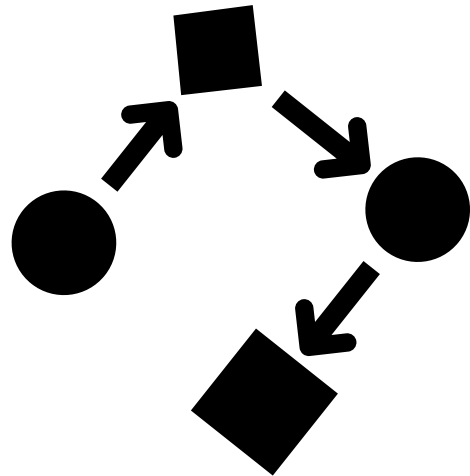
What happened in 2022?

- 2022 was The Crypto Winter of bankruptcies, volatility, fraud, hacking and contagion risk
- Over 80 releases by federal banking and securities regulators related to crypto
- FRB releases *SR 22-6 Engagement in Crypto-Asset-Related Activities by Fed-Supervised Banking Orgs*
- Agencies Issued a Joint Statement on Crypto-Asset Risks to Banking Organizations (2023)
- CFPB Bulletin highlights crypto-asset complaints
- FRB studies concept of a Central Bank Digital Currency (CBDC)

What do we expect in 2023?

- Expect regulators to continue to be cautious about crypto – balancing risks with concern of stifling innovation
- Updated FDIC Sign & Advertising Requirements to address non-insured investments (e.g., crypto) and digital/mobile channel signage
- Regulators will closely scrutinize bank's use case, controls and risk management practices to maintain safe, sound and fair banking if considering or engaging in crypto-related activities
- More legislation and oversight as House Reps create cryptocurrency subcommittee
- No decisions by FRB on whether to pursue or implement a CBDC - See Gov Bowman Remarks

Change Management



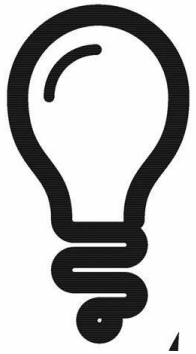
What happened in 2022?

- Tsunami of organizational changes for the banking industry:
 - Technology advances, M&A activity, market expansions, rebranding, new products /services, personnel changes, partnerships (e.g., fintechs)
- Learned to manage internal and customer-facing operational changes due to disruptive events like the pandemic
- Uptick in velocity and frequency of regulatory changes
- Increase in the use of technology and automation in oversight and supervision

What do we expect in 2023?

- Be prepared to show process for identifying and addressing compliance risks associated with organizational changes
- Emphasis on the importance of appropriate due diligence, governance and risk management processes in managing change
- Increased use of informational releases by regulators for communicating guidance
- Assessments of governance processes when undertaking significant changes

Competitive Changes



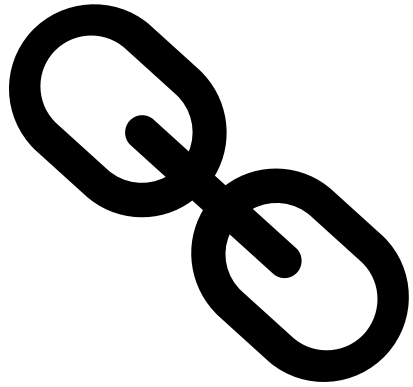
What happened in 2022?

- Ongoing recognition that Innovation is a necessary component of growth, survival, and staying competitive
- Advances in financial technology brought about by smarter ways of working and the growth of partnerships with third parties
- Increasing presence and influence of fintechs on product design, marketing, and customer interaction
- OCC announces it will establish an Office of Financial Technology in 2023 to bolster the agency's expertise and ability to adapt to a rapidly changing banking landscape
- CFPB opens the Office of Competition and Innovation to help spur innovation in financial services by promoting competition and identifying stumbling blocks for new market entrants.

What do we expect in 2023?

- Economic conditions as well as customer expectations will continue to drive innovation and reinvention
- Compliance as a differentiator – innovation must take place in a compliant environment that puts customers first integrated with a risk management framework. Customer acceptance depends on this
- Concomitant emphasis by regulators on governance of third party relationships commensurate with risk
- Further acceleration of investments in the digital transformation of the lending process
- Will the SBA's proposal to allow fintech startups to offer 7(a) loans? Will it change the competitive landscape for small business loans?

Consolidation



What happened in 2022?

- S&P: 149 bank mergers/acquisitions through November for a 162 annual pace compared to 206 in 2021
- Deal value was much lower than 2021, more on track with 2020 levels
- Regulators began reviewing the Bank Merger Act with an eye toward closer scrutiny of M/A applications and their effects
- Approvals delayed due to regulatory concerns; some deals called-off or withdrawn

What do we expect in 2023?

- The economy will likely temper M/A activity, picking-up when there is more clarity on inflation, interest rates and unemployment levels
- More transactions, arrangements, and partnerships between fintechs and banks
- Agency review of the deals will place importance on CMS, BSA/AML, TPRM, CRA and customer impact
- We will know more about where the agencies will take their review of the M/A process and the consequences. Note: OCC symposium on bank mergers on February 10, 2023.

Conditions



What happened in 2022?

- Sustained high inflation rate peaking at 9.1%
- 7 Federal Reserve interest rate increases, bringing target from 0.25%-0.50% in March to 4.25%-4.50% in December
- Mortgage applications reached lowest level in over 25 years; declines in originations
- The median existing-home sales price was up 3.5%!
- Continuing effects of the pandemic: workplace adaptations as well as credit quality, forbearance, modifications, PPP fraud

What do we expect in 2023?

- Economists predict continued interest rate hikes to a 5.00%-5.25% target with no easing expected until 2024 or beyond
- Inflation will remain high but will come down
- Recession?
- Pressures on credit quality, staffing levels, expenses, business in general
- Pandemic is still with us; business resiliency efforts continue
- Efforts to boost noninterest income come with compliance implications

Cannabis Banking



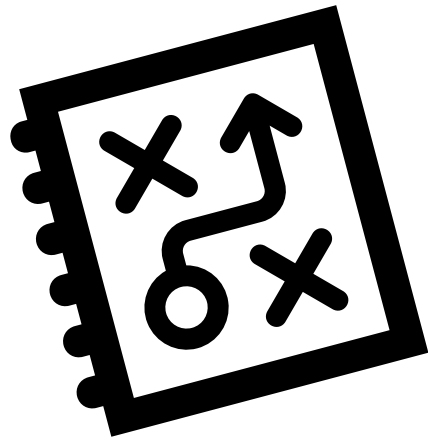
What happened in 2022?

- At YE 2022, 37 states had some form of legal cannabis programs
- Oct 6 – Presidential pardon for simple possession.
- President signs The Medical Marijuana and Cannabidiol Research Expansion Act into law; allows for scientific and clinical research
- The SAFE Act passes in the House; fails in the Senate. The HOPE Act, which also did not pass, would direct funds to states for marijuana conviction-expungement efforts while SAFE would enable financial institutions to provide traditional banking services to state-legal marijuana businesses by reducing barriers

What do we expect in 2023?

- A new Congress presents new opportunities but there is still cause for pessimism
- Congressional champions will work toward SAFE's passage again in the House. Sen. Brown indicated he will take it up in the Senate Banking Committee.
- There appears to be some level of bipartisan support but the key questions are how much and is SAFE the right legislative vehicle?
- We could see SAFE or a broader SAFE Plus package that could include expungements and other cannabis provisions; efforts to decriminalize or deschedule

What you need to do in 2023



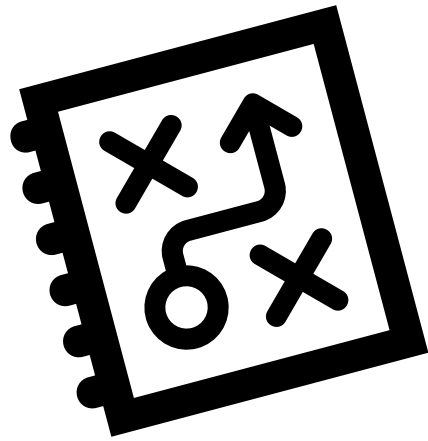
Manage Risk – Importance of the Risk Assessment Process

- Conduct a comprehensive risk assessment, keep it current, and use it
 - Ensure the risk assessment looks at Fair Lending, Third Party Risk, UDAP, the complete product life cycle, BSA/AML, cybersecurity.
 - Accurately score inherent risk in light of business conditions and economic factors; do not underplay inherent risk.
 - What is your institution's risk appetite in the current environment?

Enhance Compliance Program Management

- Expand use of automation for monitoring, analysis and implementation of regulatory changes to cut down on breakdowns and inconsistencies inherent in manual processes.
- Mine consumer complaint activity – both internal records and CFPB database – for emerging risks.
- Tailor monitoring and testing to areas of highest risk as identified by the risk assessment.
- Map your regulatory inventory to the products, services, policies and procedures, risks, controls, training and other elements of your compliance program to which they relate.
- Assess program effectiveness using the DOJ Sentencing Guidelines: Evaluation of Corporate Compliance Programs.

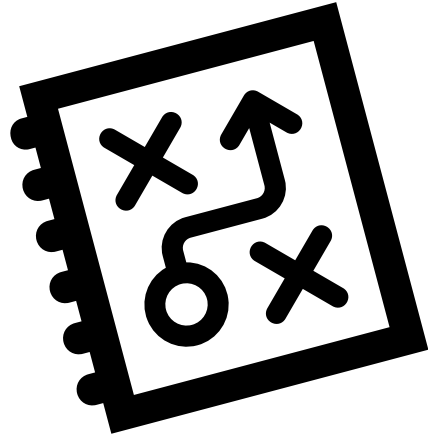
What you need to do in 2023



Manage Regulatory Change Wisely

- Make full use of regulatory implementation time periods. Organizations tend not to jump on things right away. Don't waste precious time. Start today.
- Establish clear accountability and responsibility across the enterprise now for operationalizing forthcoming large-scale regulatory changes – notably 1071 regulations.
 - Who will own it? Who is ultimately accountable?
 - Do you have an action plan? Is that action plan tracked?
 - How will you document the implementation process from end-to-end?
 - Have you engaged the appropriate stakeholders including IT and Operations?
 - What will you test to ensure you are controlling risks?
 - Are monitoring reports routinely sent to Executive team and Board of Directors?

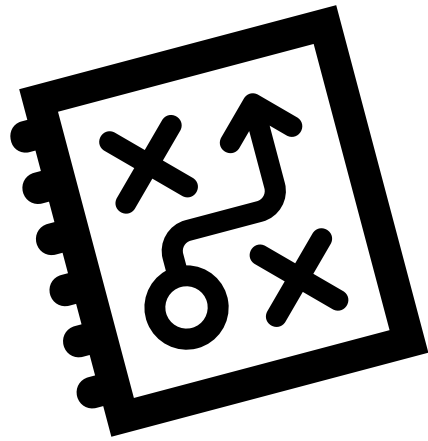
What you need to do in 2023



View Data Governance as a Regulatory and Business Imperative

- Data is a strategic asset, enabling deep insight into customer behavior, and informed decision-making. It also is essential in meeting compliance obligations.
- Effective data management is a competitive differentiator
- Data governance is a core element of risk management. Regulators demand comprehensive programs that meet their expectations. At a bare minimum, regulators will focus on:
 - Computer incident response compliance reporting protocols
 - Compliance with requirements at both the federal and state levels, including privacy laws and regulations
 - Threat and vulnerability assessments
 - How data is collected and used; who has access
 - Accountability for data across the enterprise
 - Cybersecurity

What you need to do in 2023



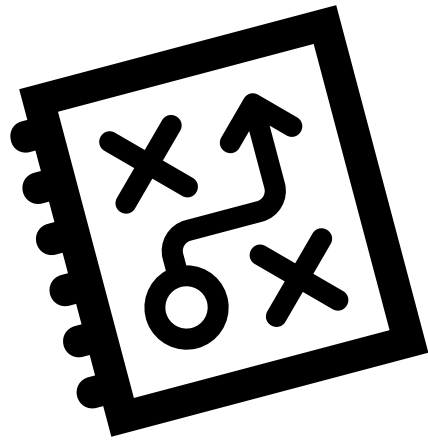
Maintain CRA Performance in Changing Times

- CRA – presents a dual challenge of operationalizing a new rule (when it comes out) and maintaining performance levels under the current rule. Keep a sharp focus on current performance – you will be examined under the current rule for at least one more examination cycle
- Current economic circumstances are placing pressures on CRA performance – how do you need to adjust your program?

Evaluate staffing models and talent management

- Review the 2023 supervision priorities of your regulators. OCC: *“Examiners’ reviews of bank governance should assess the effectiveness of talent recruitment, training, retention, and succession management processes. Weaknesses in talent management processes could lead to control breakdowns, untimely completion of material audits or other reviews, or failure to comply with rules and regulations that leads to customer impacts.”*
 - Develop comprehensive business cases for adding staff early – you are competing with others for additional staff!

What you need to do in 2023



Manage Merger and Expansion Activities

- If your organization is contemplating either a merger or an acquisition of another financial institution, or an expansion, understand what your HMDA and small business lending data says about you. Are you prepared to respond to accusations of bias? What is your record? Can you tell your story? Are you communicating your strengths? Is that story convincing? How does your CRA performance look? What are your weaknesses? How will you address them? What about the target institution? Are there gaps and problems in your BSA/AML program?

Engage with Product Leaders

- Be part of discussions about product changes, new products, and innovation. During periods of economic stress, financial institutions get creative about finding new ways to bring in revenue. Sometimes those ideas are really good; sometimes they are compliance nightmares. Regardless, Compliance and Risk management people need to be part of those discussions.

Upcoming Events

- **Wolters Kluwer Hosted Webinars:**

- Section 1071 Small Business Lending
- CRA Modernization

- **Industry Association Tradeshow:**

- ICBA Live, Sun, Mar 12 – Thu, Mar 16, Honolulu, HI
- CBA Live, Sun, Mar 26 – Wed, Mar 29, Las Vegas, NVX
- ABA Risk and Compliance, Mon, Jun 12 – Thu, Jun 15, San Antonio, TX

CRA & FAIR LENDING COLLOQUIUM

JW Marriott Austin
November 12-15, 2023
Austin, Texas

Registration: www.cracolloquium.com

Live! In Person

Sponsored by the ABA & ICBA

CRCM Credits available

***Pre & Post Conference Wiz
Sessions***

***100+ regulators attending from
the FDIC, CFPB, OCC, FRB &
more***

800+ compliance professionals

30+ insightful sessions

70+ expert speakers

2 industry awards

∞ Networking opportunities

Wolters Kluwer Resources

- ✓ Robust regulatory change management programs – including an up-to-date library

- OneSumX for Regulatory Change Management
- ProViso

- ✓ Strong Compliance and Operational Risk Management Systems

- ✓ Fully updated policies and procedures

- OneSumX Compliance and Ethics Governance
- Advisory Services and CMS Reviews

- ✓ Embracing digital transformation to effectively compete and embrace inclusivity

- eOriginal

- ✓ Use of technology to manage risk and compliance company-wide

Compliance Solutions

- CRA
- HMDA
- Fair Lending & UDAP
- BSA/AML

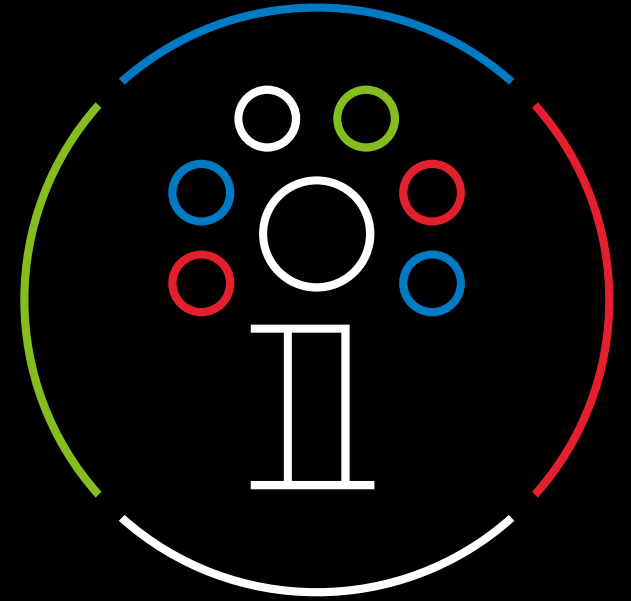
OneSumX Solutions

- Reg. Change Management
- Compliance and Ethics Governance
- Compliance Testing
- Complaint Management
- Examination Management
- Compliance Risk & Controls Assessment
- Regulatory Insight
- ProViso U.S. State Obligation Management

Thank you!

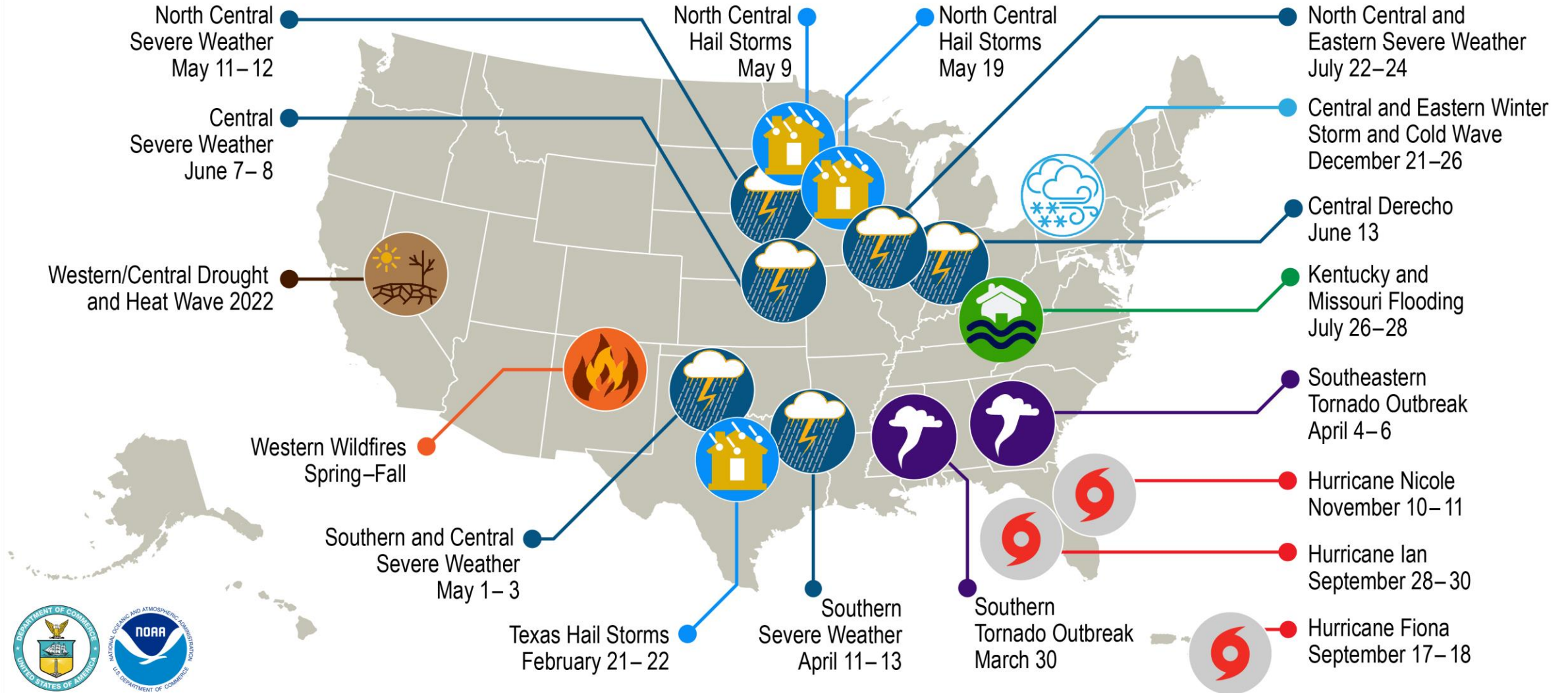


Appendix



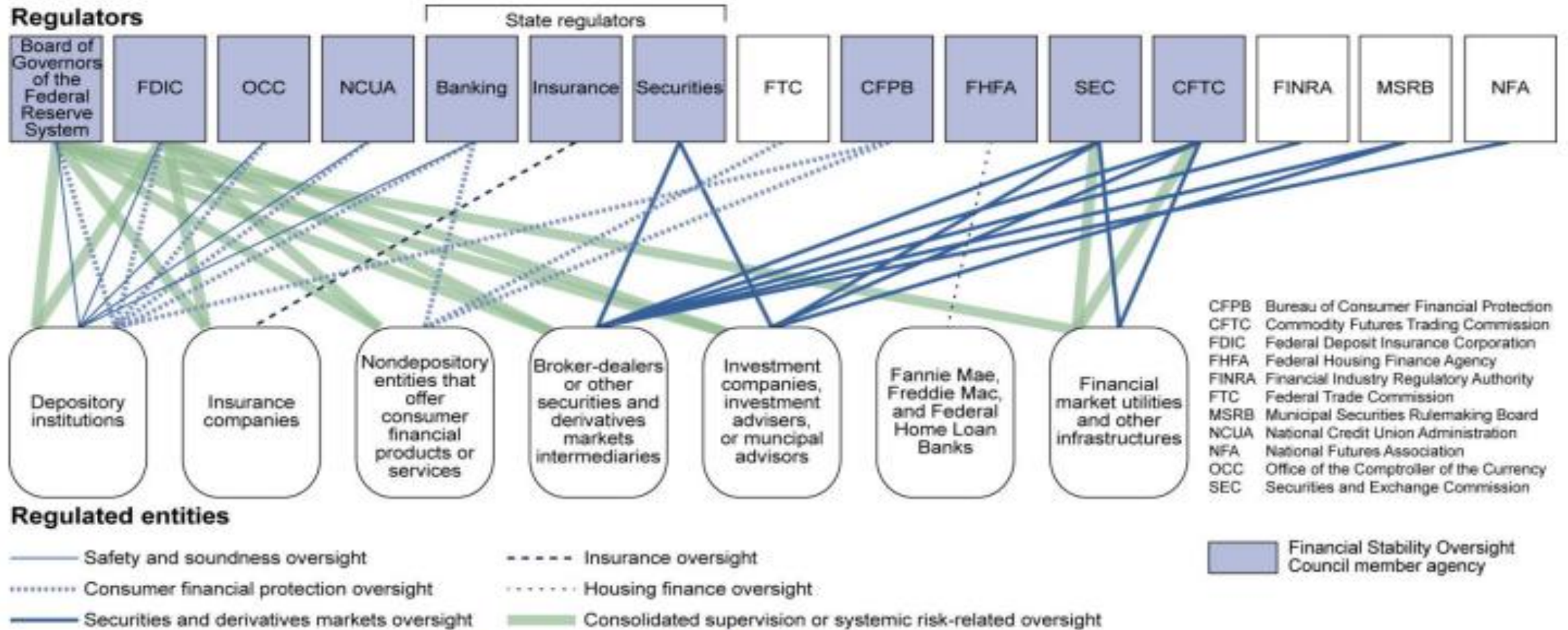
U.S. 2022 Billion-Dollar Weather and Climate Disasters

-  Drought/Heat Wave
-  Flooding
-  Hail
-  Hurricane
-  Severe Weather
-  Tornado Outbreak
-  Wildfire
-  Winter Storm/Cold Wave



This map denotes the approximate location for each of the 18 separate billion-dollar weather and climate disasters that impacted the United States in 2022.

An Overview of the U.S. Financial Regulatory Framework



Source: Government Accountability Office (GAO), *Financial Regulation*, GAO-16-175, February 2016, Figure 2.

Options for addressing the risks in crypto: pros and cons



Ban

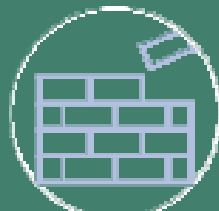
Ban specific crypto activities

Pros:

- ⊕ Eliminate potential harm to the financial system
- ⊕ Prevent losses due to crypto service provider misconduct

Cons:

- ⊖ Could conflict with founding principles of society
- ⊖ Useful innovation would be lost or delayed
- ⊖ May be circumvented in practice



Contain

Isolate crypto from TradFi and the real economy

Pros:

- ⊕ Prevent crypto from damaging the real economy
- ⊕ Avoid giving crypto a regulatory "seal of approval"

Cons:

- ⊖ Fully effective firewall may not be feasible
- ⊖ Investor protection and market integrity risks within crypto remain



Regulate

Regulate the sector in a manner akin to TradFi

Pros:

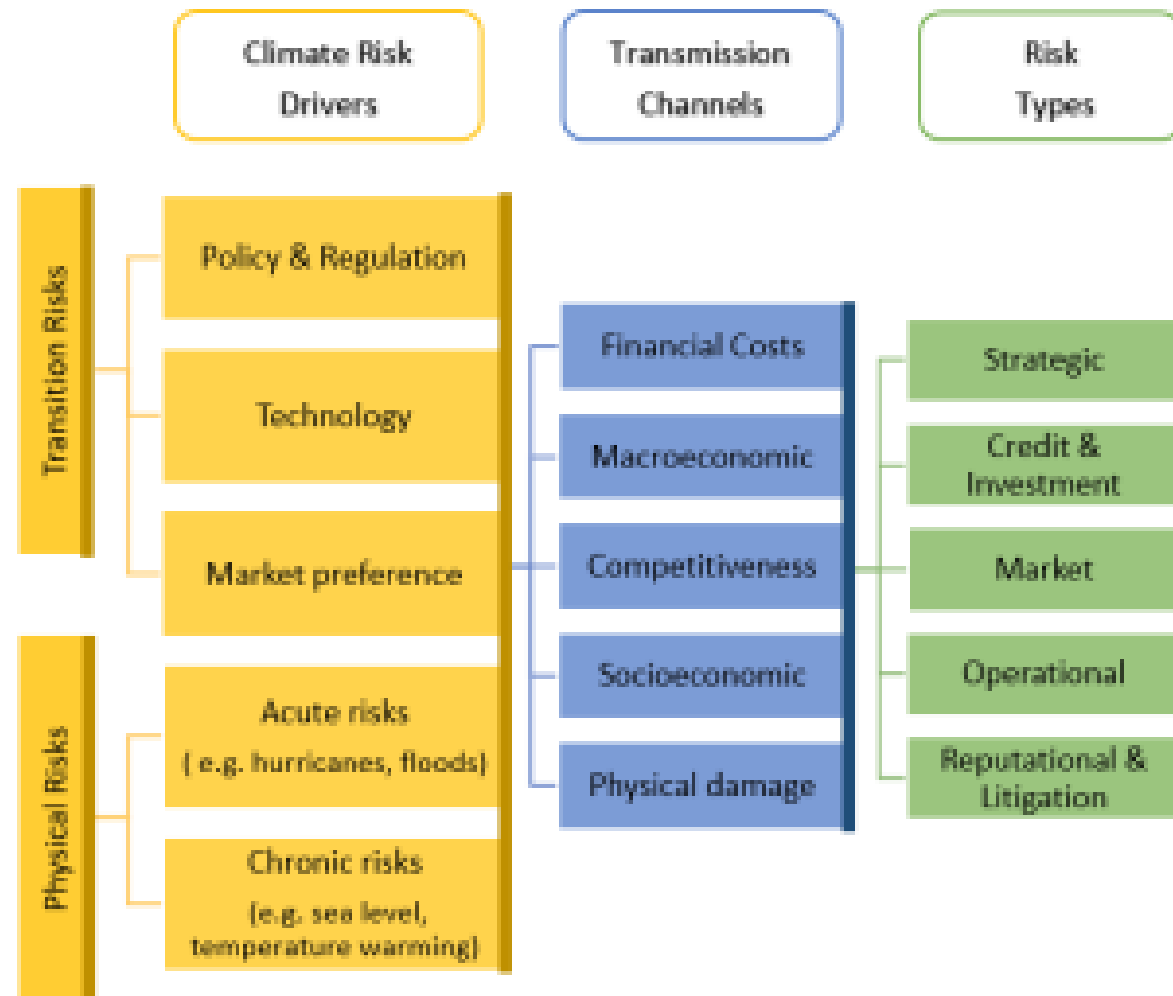
- ⊕ Ensure consistency in regulating financial activities
- ⊕ Allow responsible players to innovate in a regulated space

Cons:

- ⊖ Challenge to map crypto and TradFi activities and entities
- ⊖ Challenges for enforcement, given lack of clear reference points in some cases in DeFi

Develop an alternative: build infrastructure to allow for sound innovation

Figure 3. Climate risk drivers and transmission channels



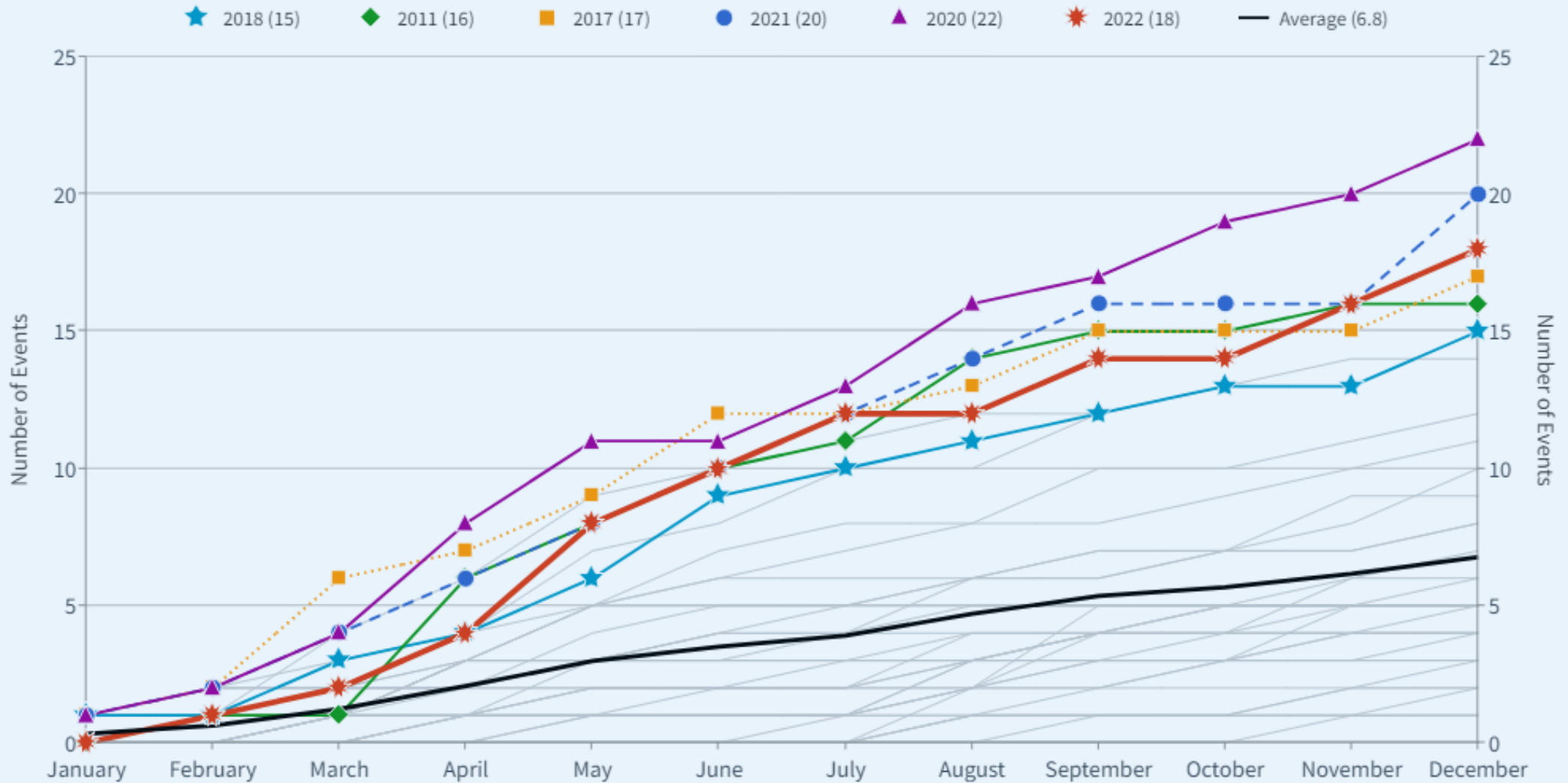
Adapted from [BIS \(2021\)](#) and G-SIBs' climate disclosures.

Potential effects of climate risk drivers

Table 1

Risk	Potential effects of climate risk drivers (physical and transition risks)
Credit risk	Credit risk increases if climate risk drivers reduce borrowers' ability to repay and service debt (income effect) or banks' ability to fully recover the value of a loan in the event of default (wealth effect).
Market risk	Reduction in financial asset values, including the potential to trigger large, sudden and negative price adjustments where climate risk is not yet incorporated into prices. Climate risk could also lead to a breakdown in correlations between assets or a change in market liquidity for particular assets, undermining risk management assumptions.
Liquidity risk	Banks' access to stable sources of funding could be reduced as market conditions change. Climate risk drivers may cause banks' counterparties to draw down deposits and credit lines.
Operational risk	Increasing legal and regulatory compliance risk associated with climate-sensitive investments and businesses.
Reputational risk	Increasing reputational risk to banks based on changing market or consumer sentiment.

1980-2022 United States Billion-Dollar Disaster Event Count (Unadjusted)



Updated: January 10, 2023

Event statistics are added according to the date on which they ended.

Powered by ZingChart