

FIRMA National Conference

Office of the Comptroller of the Currency Asset Management Policy Update

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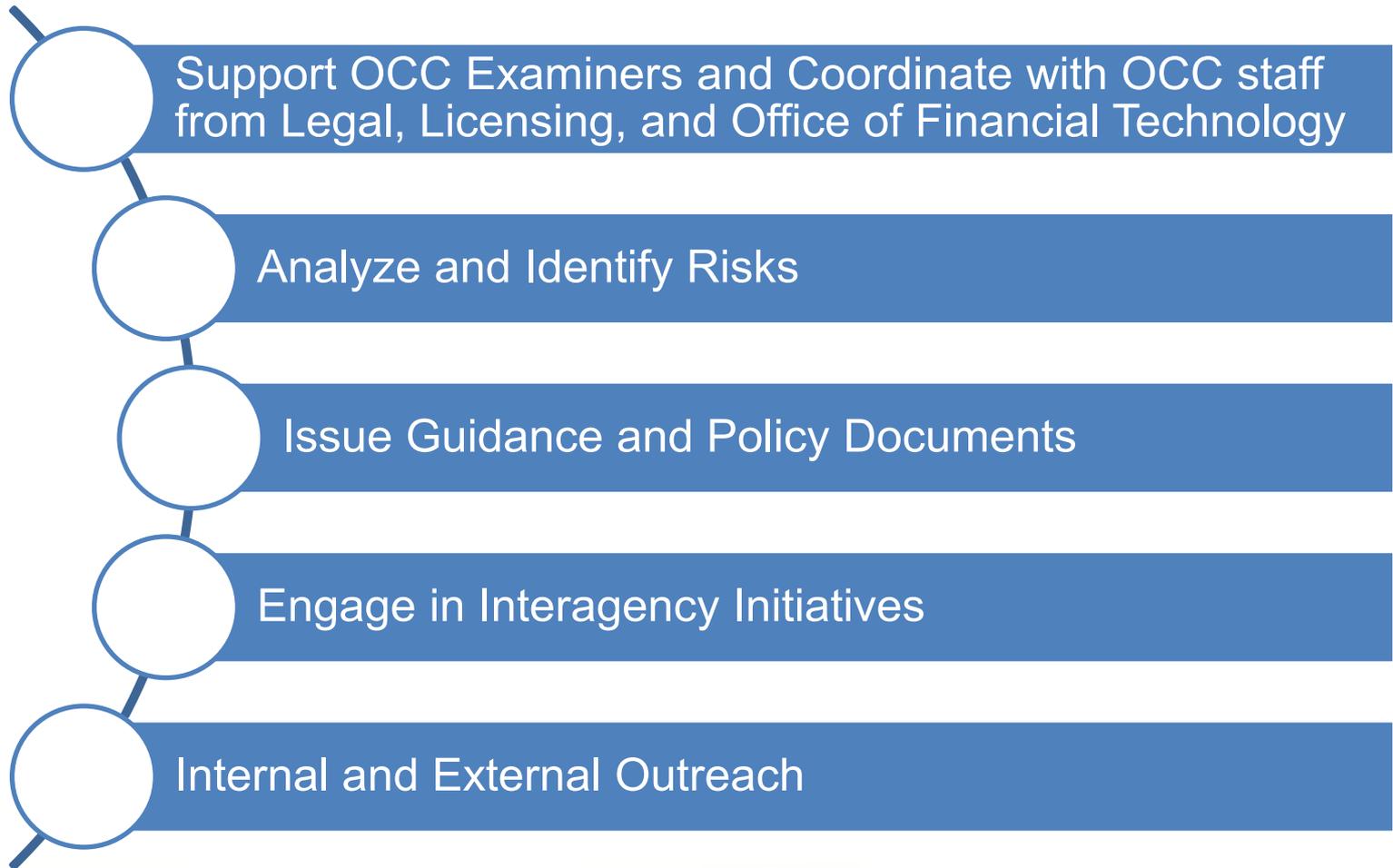
May 1, 2023



Disclosure

The views and opinions expressed in this presentation are my own, and do not necessarily represent those of the Office of the Comptroller of the Currency or Bank Supervision Policy.

Role of OCC Asset Management Policy



Operating Environment

Total Assets Under Management (AUM)

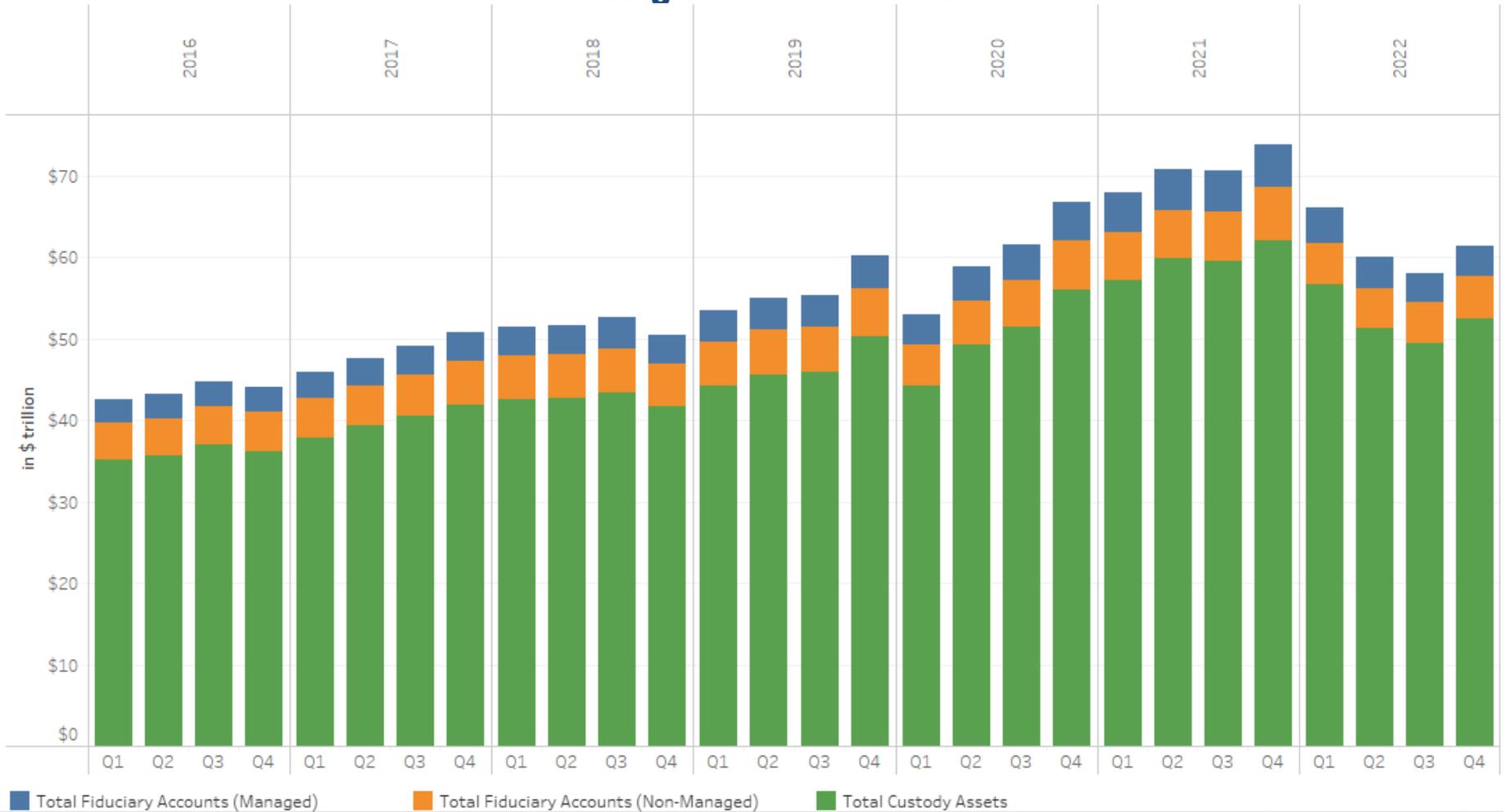
OCC Supervised Institutions

	Managed	Non-Managed	Total Assets
Personal Trust and Agency Accounts	\$519,371,882	\$407,738,844	\$927,110,726
Employee Benefit - Defined Contribution	\$1,074,259,236	\$725,784,397	\$1,800,043,633
Employee Benefit - Defined Benefit	\$434,799,182	\$588,738,507	\$1,023,537,689
Other Employee Benefit and Retirement Related	\$262,462,636	\$158,865,647	\$421,328,283
Corporate Trust and Agency Account	\$30,604,767	\$3,421,595,717	\$3,452,200,484
Investment Management and Investment Advisory	\$1,717,914,875	\$299,225,624	\$2,017,140,499
Foundation and Endowment	\$247,266,467	\$13,859,368	\$261,125,835
Other Fiduciary Accounts	\$175,997,997	\$1,020,160,716	\$1,196,158,713
Total Fiduciary Accounts	\$4,462,677,042	\$6,635,968,820	\$11,098,645,862
Custody and Safekeeping Accounts		\$56,115,320,970	\$56,115,320,970
Total Fiduciary & Custody/Safekeeping			\$67,213,966,832

in \$ thousands

Operating Environment

Trend of Assets by Type OCC Regulated Institutions



Operating Environment

Trend of Assets by Type and YOY Percentage Change



Risk and Monitor Areas



Operations and Internal Controls

Hybrid Work Environment

Cybersecurity

Call Report Accuracy

Controls

Policies & Procedures

Custody Outsourcing

Requires oversight in which the bank maintains control over assets.

The bank should have systems access and control over when assets are moved.

Still must follow national bank laws and regulations if held at non-bank entity.

Recent issues include poor oversight, conflicts, and inaccurate Call Reports.



Third-Party Risk Management OCC Bulletins



OCC 2013-29

- Third-Party Risk Management

OCC 2020-10

- FAQ to Supplement 2013-29

OCC 2021-40

- Due Diligence on FinTech Companies

Investment Risk

How are client discretionary assets being managed in a client's best interest given market challenges?



- Effective portfolio management process
- Independent oversight or controls to supervise portfolio managers

Conflicts of Interest

Product fit in a rising rate environment

Proprietary products in discretionary accounts

Risk management

OCC Conflicts of Interest Handbook



Regulatory Developments



ESG: Between Coal and a Hard Place

State-by-state ESG and Anti-ESG Legislation

- 15+ states with proposed or adopted Anti-ESG legislation

SEC Proposed Rules:

- Climate Disclosure Rule
- ESG Disclosure for Funds and Advisors
- Amendment to the “Names Rule”

DOL Final Rule:

- Prudence and Loyalty in Selecting Plan Investments and Exercising Shareholder Rights

Cryptocurrencies & Digital Assets

- Federal Banking Agencies (FBAs) would provide guidance throughout 2022.

Joint Statement on Crypto-Asset Policy Sprint Initiative and Next Steps (Nov. 2021)

OCC Interpretive Letter 1179 (Nov. 2021)

- Bank supervisory non-objection process to engage in covered crypto-asset activities.
- Adequacy of risk management and controls over proposed activities would be evaluated for approval.

Cryptocurrencies & Digital Assets

- Highlighted key risks associated with crypto-asset sector banks.
- Important that crypto-assets risks do not migrate to the banking system.
- Agencies continue to assess whether crypto-related activities can be conducted in a safe and sound manner.
- Safety and soundness concerns with concentration in crypto-asset-related activities.

Joint Statement on Crypto-Asset Risks to Banking Organizations (Jan. 2023)

Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities (Feb. 2023)

- Describes liquidity risks associated with certain sources of funding from crypto-asset-related entities.
- Describes examples of effective practices for managing liquidity risks from such sources of funding.
- Reminds banks to apply existing risk management principles.

Cryptocurrencies & Digital Assets

Crypto-activity Considerations:

IL #1170

Identifies risk management principles for crypto-asset custody

IL #1179

Approval process to engage in a covered crypto activity.

Oversight &
Expertise

New activities align with sound risk management principles and business plans & strategy.

Controls are tailored for crypto activity.

Bank has the technical expertise to oversee sub-custodians.

Other Cryptocurrency Guidance

SEC SAB 121: Obligations to Safeguard Crypto-Assets an Entity Holds for its Platform Users (March 31, 2022)

- Must record safeguarding liability and corresponding safeguarding asset on balance sheet and disclose associated risks.
- Applies to public entities June 30, 2022. FBAs are still reviewing implications.

DOL Compliance Assistance Release No. 2022-01 Cryptocurrency Guidance (March 10, 2022)

- Cautions plan fiduciaries to be extremely careful prior to adding cryptocurrency to a 401(k) plan's investment menu as these products present significant risks and challenges.

Proxy Voting

SEC Rule: Enhanced proxy voting reporting for registered funds institutional investment managers

- Identification of Proxy Voting Matters & Categories
- Quantitative & Securities lending Disclosure
- Structure Data Language and Standardized Reporting Format
- Say-on-Pay Vote Disclosure for Institutional Investment Managers

DOL Rule: Factors fiduciaries may consider when making investments and exercising shareholder rights

- Elimination of “No Vote” Statement
- Elimination of Specific Monitoring for Third-Party Votes
- Elimination of examples of permissible proxy voting policies
- Elimination of proxy voting record requirements

SEC Proposed Rules



Third-party oversight for RIAs



Open-end Fund Liquidity Framework



Safeguarding Advisory Client Assets

SEC Final Rules

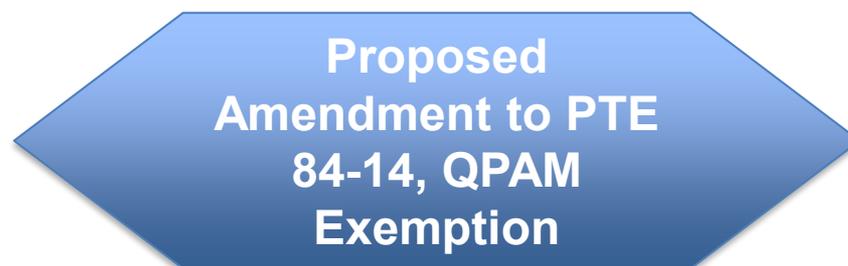
Tailored
Shareholder
Reports for
mutual Funds
and ETFs

Shortening the
Settlement
Cycle to T+1

What does this mean for banks?

- Increases transparency and information flow for investors
- Protects investors, reduces risk and increases operational efficiency
- New information can be considered in investment analysis
- Implementation will present operational challenges

DOL Proposals



What does this mean for banks?

- Updates the list of crimes that will make a QPAM ineligible to include similar foreign crimes
- Requires certain terms to be included in the written management agreement that would apply if the QPAM becomes ineligible
- Provides for a one-year winddown period if the QPAM becomes ineligible or if terminating or switching QPAM
- One time notice to DOL of intent to rely on the exemption
- Adds a new record keeping requirement

Relevant Legislation



Secure Act of 2019



Secure Act 2.0

Appendix A: OCC Asset Management Supervision



OCC Asset Management Supervision

- As of 9/30/22, OCC supervises 778 national banks, 257 federal savings associations (FSAs), and 49 federal branches and agencies.
 - \$15.9 trillion in assets – 65% of U.S. commercial bank total.
 - 55 NBs and FSAs with >\$10 billion in assets; 204 with \$1 - \$10 billion in assets; and 776 with <\$1 billion in assets.
- As of 12/31/22, OCC supervises \$11 trillion in fiduciary assets and \$56 trillion in custody assets.
 - Approximately 43% of all national banks and 28% of FSAs engage in AM activities, which include fiduciary, custody, and retail nondeposit services.

Fiduciary and Custody Assets, All Banks

	Managed	Non-Managed	Total Assets
Personal Trust and Agency Accounts	\$805,387,737	\$567,613,315	\$1,373,001,052
Employee Benefit - Defined Contribution	\$1,629,965,348	\$2,040,291,978	\$3,670,257,326
Employee Benefit - Defined Benefit	\$933,666,546	\$2,479,804,161	\$3,413,470,707
Other Employee Benefit and Retirement Related	\$447,058,932	\$597,808,740	\$1,044,867,672
Corporate Trust and Agency Account	\$35,424,578	\$5,146,699,613	\$5,182,124,191
Investment Management and Investment Advisory	\$2,823,160,030	\$377,920,833	\$3,201,080,863
Foundation and Endowment	\$450,638,092	\$82,497,854	\$533,135,946
Other Fiduciary Accounts	\$258,446,394	\$2,989,283,783	\$3,247,730,177
Total Fiduciary Accounts	\$7,383,747,657	\$14,281,920,277	\$21,665,667,934
Custody and Safekeeping Accounts		\$128,233,409,207	\$128,233,409,207
Total Fiduciary & Custody/Safekeeping			\$149,899,077,141

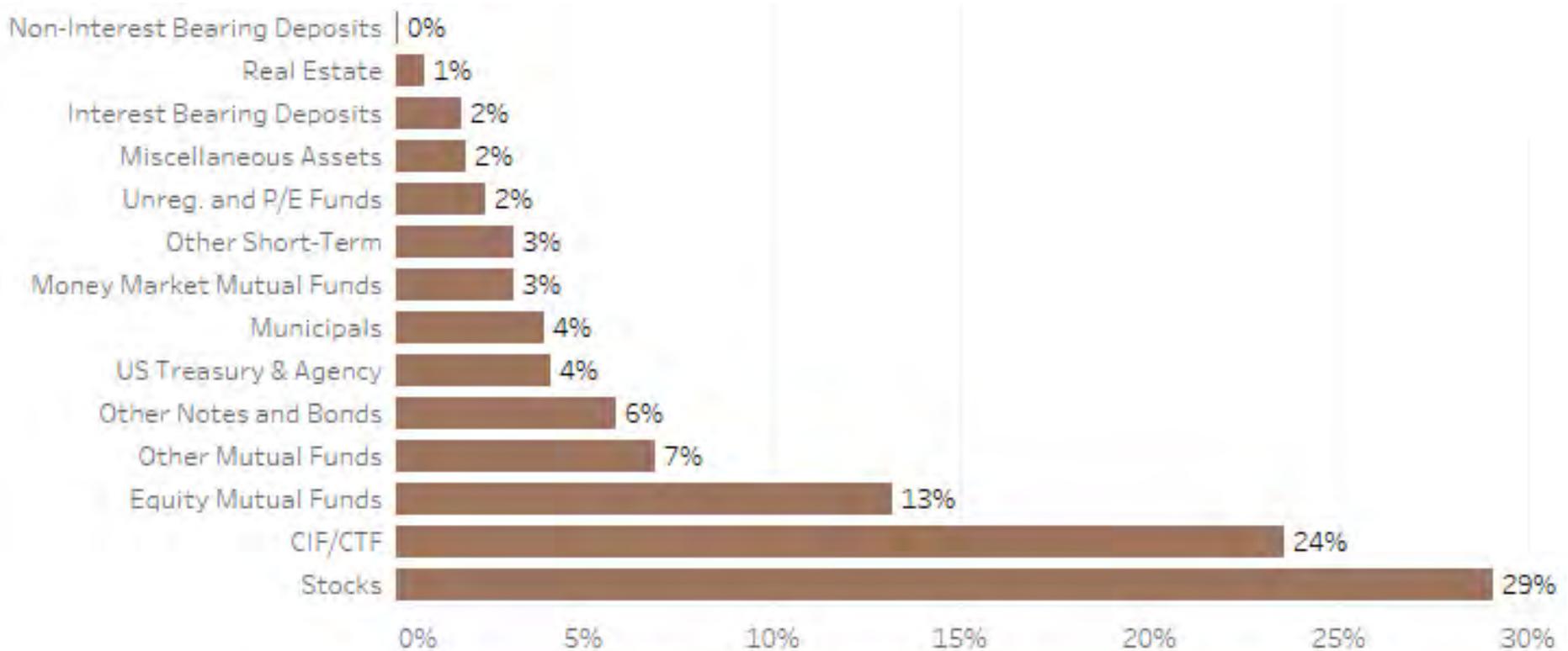
in \$ thousands

Fiduciary and Custody Assets, OCC Banks

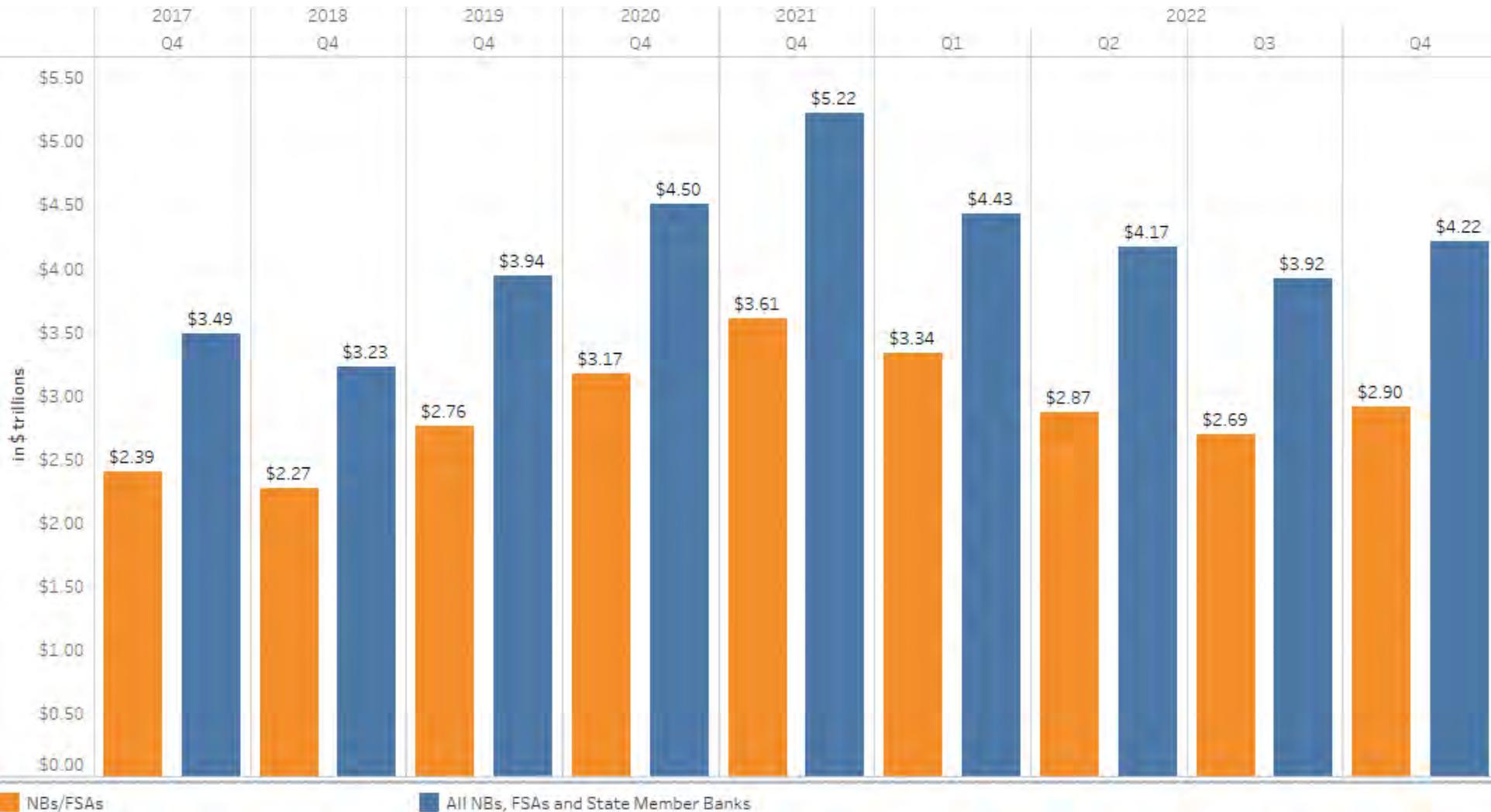
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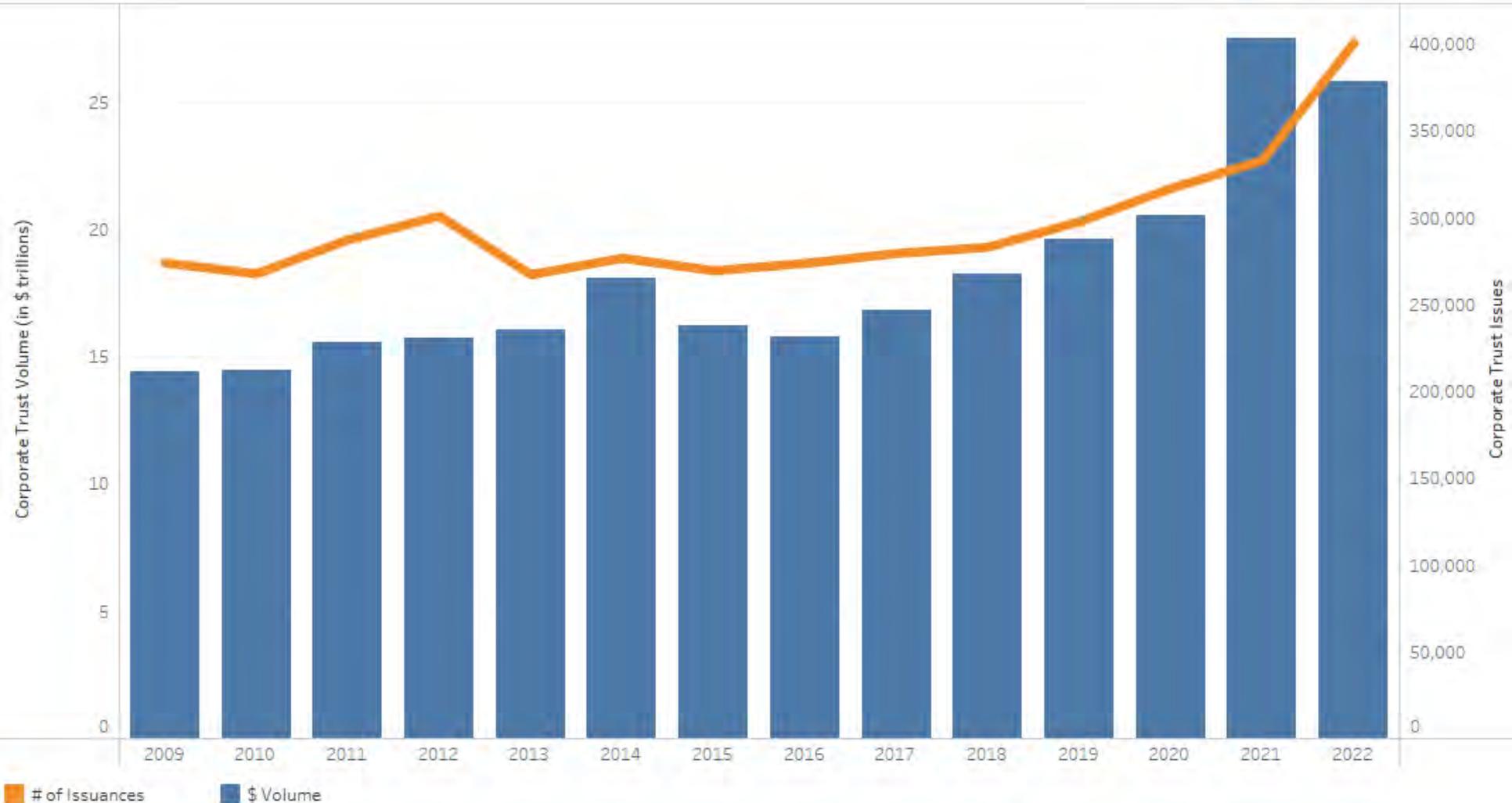
Managed Fiduciary Assets, Mix by Asset Class – OCC Banks



Collective Investment Funds – All banks



Corporate Trust Activity – All banks



Appendix B: Resources

OCC Bulletins, Banking Circulars, Interpretive Letters, and Booklets of the *Comptroller's Handbook for Asset Management* are available at [OCC: Capital Markets: Asset Management](#)



OCC AM Guidance

➤ **Comptroller's Handbooks for Asset Management**

- Asset Management (2000)
- Asset Management Operations & Controls (2011)
- Collective Investment Funds (2014)
- Conflicts of Interest (2015)
- Custody Services (2002)
- Investment Management Services (2001)
- Personal Fiduciary Services (2015)
- Retirement Plan Products and Services (2014)
- Unique and Hard to Value Assets (2012)
- Insurance Activities (2002)
- Retail Nondeposit Investment Products (2015)

OCC AM Guidance

➤ **Comptroller's Handbooks for Safety and Soundness**

(Selected Booklets)

- Community Bank Supervision (2019)
- Large Bank Supervision (2019)
- Bank Supervision Process (2019)
- Corporate and Risk Governance (2019)
- Internal and External Audits (2019)
- Internal Control (2001)
- Insider Activities (2013)

➤ **Comptroller's Licensing Manual**

- Fiduciary Powers (2017)
- Charters (2019)

OCC AM Guidance

➤ Selected OCC Bulletins

- ❑ OCC Bulletin 2023-8, “Crypto-Assets: Joint Statement on Liquidity Risks to Banking Organizations Resulting from Crypto-Asset Market Vulnerabilities”
- ❑ OCC Bulletin 2023-1, “Crypto-Assets: Joint Statement on Crypto-Asset Risks to Banking Organizations”
- ❑ OCC Bulletin 2021-57, “Bank Activities: Chief Counsel’s Interpretation Clarifying Authority of a Bank to Engage in Certain Cryptocurrency Activities and Authority of the OCC to Charter a National Trust Bank”
- ❑ OCC Bulletin 2021-46, “LIBOR Transition: Updated Self-Assessment Tool For Banks”
- ❑ OCC Bulletin 2021-40, “Third-Party Relationships: Conducting Due Diligence on FinTech Companies” (8/27/21)

OCC AM Guidance

➤ Selected OCC Bulletins

- ❑ OCC Bulletin 2020-104, “Libor Transition: Joint Statement on U.S. Dollar Libor Transition”
- ❑ OCC Bulletin 2020-74, “Collective Investment Funds: Prior Notice Period for Withdrawals: Interim Final Rule”
- ❑ OCC Bulletin 2020-68, “Libor Transition: FFIEC Statement on Managing the LIBOR Transition and Guidance for Banks”
- ❑ OCC Bulletin 2020-58, Activities and Operations of National Banks and FSA: Notice of Proposed Rulemaking (includes ANPR on the use of digital technology by National Banks and FSAs)
- ❑ OCC Bulletin 2020-22, “Short-Term Investment Funds: Interim Final Rule and Order”

OCC AM Guidance

➤ Selected OCC Bulletins

- ❑ OCC Bulletin 2020-10, “Third-Party Relationships: Frequently Asked Questions to Supplement OCC Bulletin 2013-29”
- ❑ OCC Bulletin 2017-43, “New, Modified, or Expanded Bank Products and Services – Risk Management Principles”
- ❑ OCC Bulletin 2016-17, “Compliance with SEC Money Market Fund Rules by Bank Fiduciaries, Deposit Sweep Arrangements, and Bank Investments”
- ❑ OCC Bulletin 2013-29, “Third-Party Relationships: Risk Management Guidance”
- ❑ OCC 2013-8, “Short-Term Investment Funds Reporting Requirements”
- ❑ OCC Bulletin 2011-11, Risk Management Elements: Collective Investment Funds and Outsourced Arrangements

OCC AM Guidance

➤ Selected OCC Bulletins

- OCC Bulletin 2011-12, Supervisory Guidance on Model Risk Management
- OCC Bulletin 2010-37, Self-Deposit of Fiduciary Funds
- OCC Bulletin 2009-19, New Notice Requirements for Sweep Accounts
- OCC Bulletin 2008-10, Fiduciary Activities of National Banks: Annual Reviews of Fiduciary Accounts Pursuant to 12 CFR 9.6(c)
- OCC Bulletin 2008-5, Conflicts of Interest: Risk Management Guidance Divestiture of Certain Asset Management Businesses
- OCC Bulletin 2007-42, Bank Securities Activities: SEC's and Federal Reserve's Final Regulation R

OCC AM Guidance

➤ Selected OCC Bulletins

- ❑ OCC Bulletin 2007-21, “Supervision of National Trust Banks: Revised Guidance: Capital and Liquidity”
- ❑ OCC Bulletin 2007-6, “Registered Transfer Agents: Transfer Agent Registration, Annual Reporting, and Withdrawal from Registration”
- ❑ OCC Bulletin 2006-24, “Interagency Agreement on ERISA Referrals”
- ❑ OCC Bulletin 2004-2, “Banks/Thriffs Providing Financial Support to Funds Advised by the Banking Organization or its Affiliates”
- ❑ OCC Bulletin 2002-16, “Bank Use of Foreign-Based Third-Party Service Providers”
- ❑ OCC Bulletin 2001-35, “Examination Procedures to Evaluate Compliance with the Guidelines to Safeguard Customer Information”

Climate-Related Financial Risk

➤ Selected Resources

- ❑ OCC: Principles for Climate-Related Financial Risk Management for Large Banks: for public comments <https://el.occ/news-issuances/news-releases/2021/nr-occ-2021-138a.pdf>
- ❑ FSOC: Report on Climate-Related Financial Risk <https://home.treasury.gov/system/files/136/FACT-SHEET-The-Financial-Stability-Oversight-Councils-Response-to-Climate-Related-Financial-Risk.pdf>
- ❑ Basel Committee on Banking Supervision (BCBS): Climate-related Risk Drivers and Their Transmission Channels <https://www.bis.org/bcbs/publ/d517.pdf>
- ❑ BCBS: Principles for the Effective Management and Supervision of Climate-related Financial Risks <https://www.bis.org/bcbs/publ/d530.pdf>